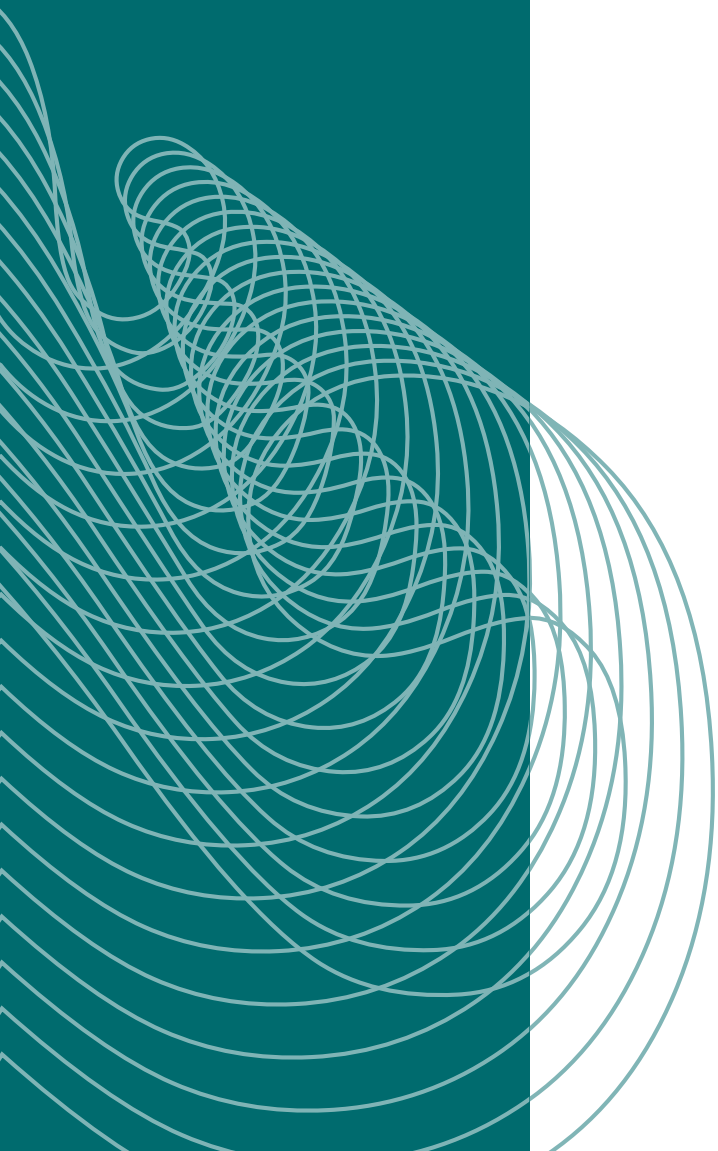




NORWEGIAN COURTS
ADMINISTRATION

2018 LAY JUDGE SURVEY

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Main findings

This report describes the findings of the national Lay Judge Survey conducted by the Norwegian Courts Administration (NCA) in 2018. The purpose of the mapping was to learn more about the functioning of the lay judges scheme with a view towards further development and improvement. The analysis focuses on five main topics:

1. Who are the lay judges?

The lay judges are not simply a reflection of the general population as such. They:

- are generally older, as people younger than 39 years are underrepresented in favour of the 50 years and older age group (in particular the age bracket 50-59 years).
- are somewhat more frequently born in Norway.
- have a higher educational level, as people with only a primary education in particular are underrepresented in favour of persons with a long university-level education.
- are more often employed – especially employees of the public sector, to the detriment of students and to some extent pensioners.
- have a gender balance corresponding to the general population.

The majority of the lay judges (72%) have experience from district courts, and from criminal cases in this body (48%). Every third lay judge is in his or her first term and has not been summoned or has only experience from a single case («Inexperienced»). A corresponding number has participated in two or more cases during this term in addition to previous experience from two or more terms («Experienced»).

2. Why do they become lay judges?

Lay judges are selected partly as a result of self-recruitment and partly through assignment:

- Half of the lay judges apply themselves, three out of ten are requested to serve, while two out of ten are appointed directly by the municipalities. Most of them have been informed of the role of lay judge via the municipalities (76%), and most (73% - 11% do not remember) have received an offer to learn more about the role.
- The lay judges are partly driven by duty ethics, partly by self-interest: Most (93%) consider the role to be beneficial to society. Almost as many (84%) consider it to be meaningful for themselves - regardless of how they were appointed.
- It is not known what share applies to be exempt from serving as a lay judge. A few (4%) of the current lay judges have applied to be exempted. (Note that any successful applicants are not included among the participants of the survey.)
- The office in itself creates few problems in their daily lives. Most (78%) indicate that the office does not entail many practical challenges. However, four out of ten apply to be excused in individual cases – to a greater extent among cases with a substantial case load.

3. Case summons

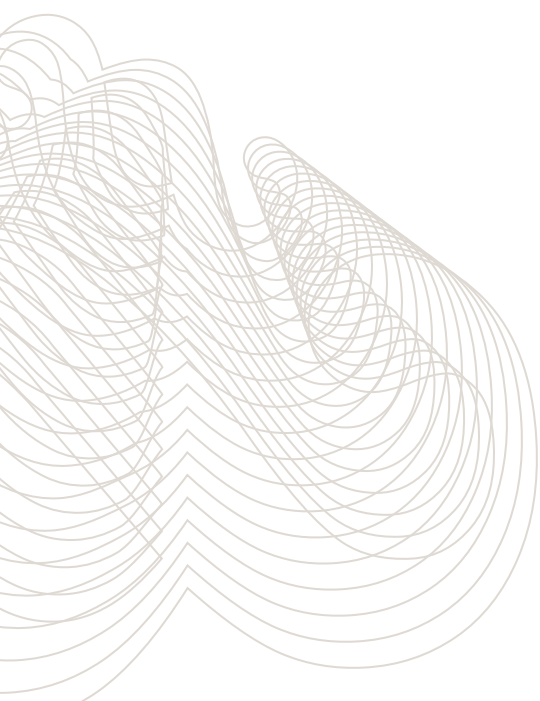
The case summons is good, but not necessarily complete:

- Approximately half of the lay judges have searched for information on the scheme on the website of the court in advance, and this is most common among the youngest lay judges.
- Most consider the language of the summons to be clear and understandable (96%). Case documents are often (45%) not enclosed with the summons, partly due to varying routines at the courts as regards which documents to distribute. Among those who received the summons, most (98%) are of the opinion that the language of the summons is clear and understandable – the same applies to the guidelines.
- In the open comments fields, however, many address a lack of predictability in the summons, unreasonably strict rules for being excused and the arbitrariness as to whether or not you will actually participate when you show up (cf. the right of rejection in the court of appeal).
- In the opinion of some, the summons should have a more practical approach as to the exact location where they have to meet, how to behave *via-á-vis* defendants/parents/guardians and the general procedure in the court room.

4. Case processing

The sense is that the processing of the cases also function well:

- Most of the lay judges (90%) feel that they are well cared for by the court and understand (98%) the language used in court. Most (70%) feel confident in their role. But more than half (59%) of those who feel insecure, report that no feedback has been provided regarding this sense of insecurity. Anyone stating that they feel insecure are generally followed up.
- While the majority has participated in emotionally demanding cases, only a few (3%) have been in need of support. Half (46%) of those with a need for such support, have not been followed up.
- The relationship with the professional judge was considered positive by most lay judges (92-99%), both during the preliminary meeting, in the court, during the deliberation and when signing the judgment. The majority (67%) felt that it was unproblematic to disagree with the professional judge.
- However, several lay judges addressed (in open comments fields) poor service during the trial as they were not offered coffee nor (during all-day meetings) food, as well as the fact that they themselves have to cover the cost of parking.



5. The lay judges own assessment of the scheme

The lay judges have a great deal of confidence in the court proceedings:

- Everyone has confidence in the proceedings (98%) and in the court decisions (97%), even though there is *somewhat* more scepticism regarding the latter (three out of ten are partly confident regarding the court decisions).

Overall, this indicates a scheme that does not fully satisfy the requirement of being judged by one's peers, but which generally works as intended in terms of the lay judges. Thus, further measures may address:

- The selection process, to the extent that the recruitment should be balanced even further.
- The factors relating to the proceedings with the highest percentage of "somewhat disgruntled" are elements such as the obligation to serve and disagreements with the professional judges, confidence in the court decisions, as well as practical challenges relating to the role.
- Practical considerations relating to summons, compensation and attending.

The current widespread satisfaction with the proceedings may partly be a consequence of the recruitment process. If the share of persons "ordered to serve" increases, or in the event of actively attempting to stimulate recruitment among the currently underrepresented demographic and social groups, the challenges associated with continuation of the scheme may increase.

The Norwegian Courts Administration has conducted a survey among the lay judges. The purpose of the survey is to improve the knowledge regarding the functioning of the lay judges scheme. Read the main findings here. Kersti Fjørstad, Deputy Director for the Service Development Unit, is responsible for the report.

