



Ministry of  
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# Judicial and Court Statistics 2011

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# Introductory note

This report presents statistics on judicial and court activity in England and Wales in 2011. It was formally entitled “Judicial Statistics” for the 2005 edition and earlier years, which was published by the Department for Constitutional Affairs and its predecessors.

## Report structure

This report provides statistics on activity in the county, family, Crown and magistrates’ courts of England and Wales along with statistics on the work of the High Court, Court of Appeal, UK Supreme Court and some associated offices and agencies, such as the Court of Protection, the Office of the Public Guardian and the Judicial Committee of the Privy Council.

**Chapters 1 to 7** each start with a commentary section which includes a brief description of the function, constitution and jurisdiction of the relevant court type, an explanation of some of the procedures involved, and description of the latest statistics and trends. The chapters conclude with statistical tables. **Chapter 8** provides summary statistics on casework of the Court of Protection and the Office of the Public Guardian, while **Chapter 9** contains casework data relating to the Offices of the Supreme Court. **Chapters 10 and 11** deal with the judiciary and assessment of litigation costs and publicly funded legal services, respectively.

The statistics give a summary overview of the volume of cases dealt with by these courts and offices over time, broken down for the main types of case involved. The statistics are used to monitor court workloads, to assist in the development of policy, and their subsequent monitoring and evaluation.

**Annex A** provides summary information on data sources for the figures given in this report, along with a brief discussion on data quality and highlighting any significant revisions compared to previously published statistics. There is also a **Glossary** section which provides brief definitions for some of the main terms used in this report.

Information about statistical revisions, forthcoming changes and the symbols and conventions used in the bulletin are given in the **Explanatory Notes** section.

## Other court statistics published by the Ministry of Justice

Provisional statistics on many aspects of activity in the county, family, Crown and magistrates' courts of England and Wales in 2011 have already been published by the Ministry of Justice in the statistical bulletin *Court Statistics Quarterly*. The statistics presented in *Judicial and Court Statistics* constitute final figures for 2011, and show more detailed tables than in the quarterly report. Most revisions compared to the figures already published in *Court Statistics Quarterly* reflect updates to administrative data sources since figures were first compiled. This report is published at the same time as the Q1 (January to March) 2012 edition of *Court Statistics Quarterly*.

These statistical bulletins are available from the Ministry of Justice website at:

[www.justice.gov.uk/publications/statistics-and-data/courts-and-sentencing/index.htm](http://www.justice.gov.uk/publications/statistics-and-data/courts-and-sentencing/index.htm)

The Ministry of Justice also publishes quarterly statistical reports focusing on a particular aspect of court workload in detail, covering statistics on the timeliness of criminal cases in the magistrates' courts (summary statistics also shown in **Chapter 3** of this report), mortgage and landlord possession actions in the county courts, and company winding-up and bankruptcy petitions in the county courts. These bulletins are also available from the Ministry of Justice website at, respectively:

[www.justice.gov.uk/publications/statistics-and-data/criminal-justice/index.htm](http://www.justice.gov.uk/publications/statistics-and-data/criminal-justice/index.htm)

[www.justice.gov.uk/publications/statistics-and-data/civil-justice/index.htm](http://www.justice.gov.uk/publications/statistics-and-data/civil-justice/index.htm)

If you have any feedback, questions or requests for further information about this statistical bulletin, please direct them to the appropriate contact given at the end of this report.

### **Tribunals' statistics**

Although this report contains statistics on appeals against the decisions of various tribunals, it does not contain statistics on the work of the Tribunals Service and the Tribunals judiciary. Quarterly statistics on the workload in the Tribunals Service can be found at:

[www.justice.gov.uk/publications/statistics-and-data/tribunals/index.htm](http://www.justice.gov.uk/publications/statistics-and-data/tribunals/index.htm)

### **Coroners statistics**

Annual National Statistics on deaths reported to coroners, including inquests and post-mortems held, inquest verdicts returned and finds reported to coroners under treasure legislation can be found at:

[www.justice.gov.uk/publications/statistics-and-data/coroners-and-burials/index.htm](http://www.justice.gov.uk/publications/statistics-and-data/coroners-and-burials/index.htm)

# Background on the court system in England and Wales

Criminal cases in England and Wales start in a magistrates' court. The less serious offences are handled entirely in magistrates' courts. More serious offences are passed on to the Crown Court, either for sentencing after the defendant has been found guilty in a magistrates' court, or for a full trial with a judge and jury. The Crown Court also receives appeals against decisions of the magistrates' courts.

Cases in the magistrates' courts are heard by either two or three lay magistrates (local people who volunteer their services, who may not have formal legal qualifications but will have undertaken a training programme to develop the necessary skills) or by one District Judge (legally qualified, paid, full-time professionals, who are usually based in the larger cities and normally hear the more complex or sensitive cases). Crown Court cases may be heard by Circuit Judges, Recorders or a High Court Judge, depending on the seriousness of the offence.

The vast majority of civil cases in England and Wales which do not involve family matters or failure to pay council tax are handled in the county courts. These cases are typically related to debt, the repossession of property, personal injury and insolvency. Once a claim has been served, the usual options for the defendant are to do nothing, pay up, admit the claim and ask for more time to pay up, and/or dispute the claim. The vast majority of claims are either not defended, or settle or are withdrawn before a hearing or trial. Particularly important, complex or substantial cases are dealt with in the High Court.

All family matters in England and Wales are dealt with at either Family Proceedings Courts (which are part of the magistrates' courts), at county courts or in the Family Division of the High Court. Family courts deal with matters such as: parental disputes, local authority intervention to protect children, matrimonial cases such as divorce petitions, the financial provisions for children after divorce or relationship breakdown, domestic violence remedies and adoption.

As noted above, some civil and family cases are dealt with in the High Court rather than in a lower court. The High Court's Chancery Division primarily deals with the resolution of disputes involving property (e.g. land, business, and intellectual property), taxation, mortgages, insolvency, and others. The High Court's Queen's Bench Division deals mainly with civil actions in contract and any private or civil wrong for which private damages may be claimed, not including a breach of contract. (tort) and also deals with more specialist matters such as applications for judicial reviews. As well as dealing with such cases outright, the High Court also hears appeals involving such matters where they were originally heard in the county and magistrates' courts. Most proceedings in the High Court are heard by a single judge,

but certain kinds of proceedings may be heard by two or more judges. On rare occasions cases may have a jury.

The Court of Appeal of England and Wales is the second most senior court in the country. The Court of Appeal's Criminal Division hears appeals concerning criminal matters originally dealt with at the Crown Court, while the Civil Division hears appeals concerning cases heard at the county courts and High Court (and also from tribunals). Permission to appeal is required, either from the lower court or the Court of Appeal itself. The judges of the Court of Appeal are the Lord Chief Justice, the Master of the Rolls and 37 Lords Justices.

The United Kingdom Supreme Court was created in October 2009 and replaced the House of Lords as the highest court in the United Kingdom. Decisions made by the Court of Appeal may be further appealed to the Supreme Court (in some civil matters dealt with at the High Court an appeal may be made directly to the Supreme Court). The Supreme Court hears appeals on arguable points of law of the greatest public importance, bearing in mind that the cases will have already been the subject of judicial decision in a lower court. It hears appeals for the whole of the United Kingdom in civil cases, and for England, Wales and Northern Ireland in criminal cases<sup>1</sup>. Additionally, it hears cases on devolution matters. There are 12 Justices of the Supreme Court in total; cases are typically heard by a panel of three to nine of the Justices.

The Judicial Committee of the Privy Council is the final Court of Appeal for 23 Commonwealth territories and four independent republics within the Commonwealth. It also hears appeals from the Channel Islands and the Isle of Man, and appeals within the UK relating to a small number of matters such as veterinary work and pastoral schemes.

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<sup>1</sup> Scotland has a distinctive tradition of criminal law and procedure. The High Court of Justiciary, sitting as an Appeal Court, is the final court of appeal in Scottish criminal cases.

# Main findings

The statistics presented in this report are primarily used to monitor the type and volume of cases that are received and processed through the court system of England and Wales.

## County courts (non-family)

The civil cases dealt with by the county courts (excluding family cases) typically relate to debt, the repossession of property, personal injury and insolvency. Since 2006, the total number of claims issued has followed a downward trend, while the number of defences made and trials/small claim hearings have remained relatively flat.

### Key points

- **Claims issued:** 1,553,983 civil (non-family) cases started in 2011, a fall of 4 per cent compared to 2010. This continues the general downward trend seen since 2006, which is mainly due to decreases among specified money (typically debt-related claims, claims for the recovery of land and insolvency petitions (Table 1.1).
- **Claims defended:** When a claim is issued, a copy is sent to (served on) the defendant who has 14 days to respond to the claim. The defendant can do nothing, pay up (either the full amount of the claim or in part), admit the claim and ask for more time to pay (in full or part), and/or dispute (defend) the claim (in full or part). There were 275,920 defences made in 2011, a five per cent decrease on the previous year, continuing the downward trend seen since 2007. The fall in claims defended since 2007 reflects in part the reduction in claims issued over the same time-period (Table 1.7).
- **Hearings and trials:** Defended cases which are not settled or withdrawn result in a hearing or trial. In total there were 52,660 trials and small claims hearings in 2011, a fall of thirteen per cent from the previous year and lower than in any year from 2006 onwards. On average, small claim hearings occurred 30 weeks after the claim was originally made, down from 31 weeks in 2010. Trials took place an average 56 weeks after the claim was originally made, up from 54 weeks in 2010 (Table 1.8).

- **Enforcement of a judgement:** Once a judgement has been made, further steps may need to be taken to enforce it. There were 263,527 warrants for enforcement, a decrease of six per cent compared with 2010 and of 46 per cent compared with 2006. These falls reflect the large falls in claims and also the increases in court fees for enforcement applications since 13 July 2009 (Table 1.15).
- **Warrants of possession:** 59,338 repossessions of property were made by county court bailiffs, an increase of ten per cent on the previous year and reflecting the increase in repossession claims. 25,487 of the properties were on behalf of mortgage lenders, eight per cent more than in 2010 but 29 per cent lower than the 2008 peak (Table 1.17).

## Family matters

Family cases deal with issues such as parental disputes, child protection cases, divorce and separation, and cases of domestic violence. In 2011, there was an overall decrease in applications made in relation to matters affecting children and a continuation of the recent downward trend in the number of divorces.

### Key points

- **Public law children's matters:** The number of children involved in public law applications made by local authorities jumped from 19,760 in 2008 to 25,810 in 2009, following the publicity surrounding the Baby P case. The numbers increased further in 2010 and 2011 with 29,492 children involved in public law applications in 2011; an increase of 13 per cent compared with 2010 (Table 2.1).
- **Private law children's matters:** The number of children involved in private law applications, which usually follow a breakdown in their parents' relationship, rose to a peak in 2009 and has since fallen back in 2011 to a similar level as 2006. The total number of children involved in private law applications decreased by 13 per cent compared with 2010, from 126,220 to 109,656.
- **Divorces:** Divorce rates peaked in 2003, and have fallen since then, levelling off at around 120,000 divorces per year since 2008. The decline reflects the smaller married population and a higher average age at marriage. The younger a person marries, the higher the probability of getting divorced so the trend to delay marriage has partly contributed to the observed general decline in divorce over the last 20 years. There were 129,298 petitions filed for dissolution of marriage in 2011, a decrease of three per cent compared with the previous year; whilst the number of divorces decreased by one per cent from 2010 (Table 2.5).

- **Domestic violence:** Both applications and orders made for domestic violence have been declining since 2002. Over this time both non-molestation and occupation orders have fallen, but a greater fall has been seen in occupation orders – in 2002 these made up one-third of the orders made, but in 2011 only one-sixth of orders were for occupation. Applications for domestic violence remedies decreased by 14 per cent in 2011 compared with 2010. This included applications for non-molestation orders which decreased by 13 per cent and applications for occupation orders which decreased by 17 per cent (Table 2.8).

## Magistrates' courts

Criminal court cases start in a magistrates' court; less serious offences are dealt with by the court, while more serious offences are passed on to the Crown Court.

### Key points

- **Criminal proceedings:** 1.62 million defendants were proceeded against in criminal cases in the magistrates' courts in 2011 (excluding adult breaches), a fall of three per cent compared to 2010 and a fall of 15 per cent compared to 2008, mainly due to decreasing volumes in summary motoring, indictable and youth proceedings (Table 3.1).
- **Trials:** 166,808 trials were recorded in the magistrates' courts in 2011, a seven per cent decrease on 2010. Of those trials, 39 per cent were recorded as cracked (where an acceptable plea is offered by the defendant or the prosecution offers no evidence against the defendant) and 18 per cent are recorded as ineffective (where a further listing for trial is required). Rates of effective, cracked and ineffective trials in the magistrates' court have remained relatively stable since 2006 (Tables 3.3 and 3.4).
- **Fines paid:** The amount paid in the enforcement of financial penalties was £277 million, a 1 per cent decrease on 2010 (Table 3.6).
- **Offence to completion time:** The average time taken from offence to completion was 144 days for all defendants in completed criminal cases in the magistrates' courts in 2011 (a three per cent increase compared with 2010) (Table 3.7).
- **Hearings per case by plea:** The average number of hearings per case for all criminal cases was 1.78 hearings, down from 1.80 hearings in 2010. This is due to an increase in the proportion of defendants whose case was completed at the first hearing (i.e. for whom the time between first hearing and completion was 0 days; 62 per cent in 2011) (Table 3.8).

- **Offence to completion time by plea:** Defendants who entered an initial guilty plea, on average had the shortest time from offence to completion (98 days). This is due to a large proportion of defendants whose case was completed at the first hearing (80 per cent) and, fewer hearings (1.34 hearings per defendant on average) for defendants who entered an initial guilty plea (Table 3.9).

## The Crown Court

The Crown Court deals with criminal cases that are too serious to be dealt with by the magistrates' courts. Some cases can only be heard at the Crown Court because of their seriousness ("sent for trial" cases) and other types of cases can be heard at either a magistrates' court or the Crown Court ("committed for trial" cases).

The Crown Court also deals with cases "committed for sentence" – those transferred for sentencing after a defendant has been found guilty in a magistrates' court, when a magistrate believes their sentencing powers are insufficient to apply an appropriate sanction – and appeals against the decision of a magistrates' court.

### Key points

- **Total receipts:** There were 148,250 cases received by the Crown Court in 2011. This represents a decline of three per cent on the previous year, a change in the general trend in increasing receipts seen since 2004 (Table 4.1).
- **Cases disposed of:** There were 150,268 cases disposed of by the Crown Court in 2011. This represents a two per cent decline on 2010, reflecting a similar decrease in the number of cases referred to the Crown Court. Since more cases were disposed of than received during 2011, the backlog of cases outstanding at the end of the year decreased to 44,752.
- **Defendants dealt with by plea:** Of those defendants dealt with in 2011 who entered a plea (in cases committed or sent for trial), 70 per cent pleaded guilty. Though this represents no change compared to 2010, this rate has been steadily increasing over the years from 56 per cent in 2001 (Table 4.6).
- **Trials listed:** In 2011, there were 41,412 trial listings in the Crown Court compared to 43,261 in the previous year. Of these, 46 per cent were recorded as 'effective', 14 per cent were 'ineffective' and 40 per cent were 'cracked'. The rate of cracked trials has remained approximately stable from 2007 (Tables 4.11-4.13).

- **Waiting time:** The “average waiting time” refers to the average time between the date of sending or committal to the Crown Court and the start of the substantive Crown Court hearing. In 2011, the average waiting time for defendants committed for trial was 13.7 weeks compared to 14.2 weeks in the previous year, while the corresponding figure for defendants sent for trial was 19.5 weeks compared to 19.3 weeks in the previous year. The average waiting time was lower for those held in custody than for those on bail, and lower for those who pleaded guilty than for those who pleaded not guilty (Tables 4.14 and 4.15).

## **High Court - Chancery and Queen’s Bench Divisions**

In England and Wales civil justice is administered mainly by the High Court and county courts. It is divided into three main Divisions: the Chancery Division, the Queen’s Bench Division and the Family Division. The Chancery Division and Queen’s Bench Division of the High Court handle the more substantial and complex cases relating to such matters. The Family Division deals with cases concerning family issues, which in this report is included within the Family matters statistics section (Chapter 2).

### **Key points**

- **Chancery Proceedings:** There were 35,238 proceedings started in the High Court’s Chancery Division in 2011, an increase of six per cent compared to 2010, although 23 per cent lower than in 2009. Applications filed at the Bankruptcy court increased by 10 per cent compared to 2010, but were nearly a third lower than in 2009, while proceedings started in the Companies Court increased by 9 per cent compared to 2010 but were 23 per cent lower than in 2009 (Table 5.1).
- **Queen’s Bench Division proceedings:** There were 13,928 proceedings started in the High Court’s Queen’s Bench Division in 2011, 16 per cent less than in 2010 and 25 per cent less than in 2009 (Table 6.1).
- **Queen’s Bench Division claims:** Of the 4,726 claims issued in the Queen’s Bench Division at the Royal Courts of Justice in London, a quarter related to debt and around one in five related to breach of contract (Table 6.2).

## **Appellate Courts**

The Court of Appeal of England and Wales is the second most senior court in the country. The Court of Appeal’s Criminal Division hears appeals concerning criminal matters originally dealt with at the Crown Court, while the Civil Division hears appeals concerning cases heard at the county courts and High Court.

In October 2009, the Supreme Court replaced the Appellate Committee of the House of Lords as the highest court in the UK. Decisions made by the Court of Appeal may be further appealed to the Supreme Court (in some civil matters dealt with at the High Court an appeal may be made directly to the Supreme Court). The Supreme Court hears appeals on arguable points of law of the greatest public importance.

The High Court also exercises an appellate jurisdiction through its three Divisions in such matters as bankruptcy, judicial review, 'case stated' (ruling whether a court or tribunal was wrong in law or in excess of its jurisdiction) and appeals from magistrates' courts in domestic matters.

### Key points

- **Appeals to the UK Supreme Court:** There were 77 appeals presented to the UK Supreme Court during 2011, while 81 appeals were determined (Table 7.4).
- **Applications to the Court of Appeal Criminal Division:** During 2011, a total of 7,475 applications leave to appeal were received by the Court of Appeal Criminal Division in 2011, of which 1,535 were against conviction in the Crown Court and 5,623 against the sentence imposed (Table 7.6).
- **Appeals heard by Court of Appeal Criminal Division:** A total of 2,576 appeals were heard by the Court of Appeal Criminal Division during 2011 of which 503 appeals against conviction and 2,073 appeals against sentence were heard (Table 7.7). A further 1,269 appeals were filed in the Court of Appeal Civil Division (Table 7.8).
- **Applications to the Administrative Court of the High Court:** There were 11,200 applications for permission to apply for judicial review received in the Administrative Court of the High Court in 2011, the majority of which, as in previous years, concerned asylum and immigration matters (Table 7.12).

### Additional Chapters

In addition to the above, this report includes results on the Mental Capacity Act, the Office of the Supreme Court, the Judiciary and the assessment of litigation costs and publicly funded legal services.

### Key points

- **Justices of the Peace by sex:** There are more female Justices of the Peace than male and have been from 2008. More women have been appointed as a Justice of the Peace than men every year from 2007/08 (Tables 10.4 and 10.5).
- **Publicly funded legal services:** Total net expenditure for all publicly funded legal services was £1.9 billion in 2010/11, a reduction of ten per cent from the previous year (Table 11.3).

# Chapter 1 – County courts (civil non-family)

County courts in England and Wales deal with the vast majority of civil cases (as opposed to criminal cases) which do not involve family matters or failure to pay council tax or child maintenance. All county courts have jurisdiction to deal with contract and tort cases (those relating to civil wrongs) and recovery of land actions. These cases are typically related to debt (usually issued for a specified amount of money), the repossession of property and personal injury (normally issued for an unspecified amount of money). In addition, some county courts deal with bankruptcy and insolvency matters, equity and contested probate actions (where the value of the trust, fund or estate does not exceed £30,000), matters under the Race Relations Act 1976, and actions which all parties agree to have heard in a county court (e.g. defamation cases). The most complex, substantial or important cases are dealt with by the High Court.

All county courts are assigned at least one District Judge and some, at least one Circuit Judge. From 6 April 2009, Circuit Judges have heard cases worth over £25,000<sup>2</sup> or involving greater importance or complexity. District Judges hear many of the cases worth over £5,000 but not over £25,000. In addition to hearing other cases, District Judges case-manage proceedings, deal with repossession matters, and make contested and uncontested assessments of damages.

Information on the data sources used for the county court statistics can be found in **Annex A**. Explanations for some of the main terms used in this chapter can be found in the **Glossary**. The tables of detailed data can be found immediately following this section of commentary.

## Key findings

There was a four per cent fall compared to 2010 in civil (non-family) cases commencing in the county courts. Within the total of 1,553,983 cases started in 2011:

- 995,895 were money claims for a specified amount (typically related to debt issues); lower by four per cent than in 2010. 38 per cent of these claims had a claim value of up to £500, up from 36 per cent in 2010.
- 215,264 were repossession claims, with 73,181 being mortgage related (down three per cent compared to 2010) and 142,083 being landlord related (up five per cent compared to 2010).

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<sup>2</sup> The lower (claim value) limit of the multi track, whose claims are generally heard by a Circuit Judge, was increased from £15,000.01 to £25,000.01 with effect from 6 April 2009.

- 178,234 were money claims for an unspecified amount (typically related to personal injury), down by six per cent compared with 2010.
- 49,724 were insolvency petitions, down by around 25 per cent compared with 2010.
- Five per cent fewer defences were made in civil cases in the county courts than in 2010 while there were one per cent more allocations to track.
- 15,941 trials were disposed of, a nine per cent decrease on 2010, with 67 per cent relating to unspecified money cases. 36,719 small claim hearings were also disposed of, a 14 per cent decrease on 2010, with 95 per cent relating to specified money cases. Trials took place on average 56 weeks following issue, up from 54 weeks in 2010, and lasted an average of four and a half to five hours. Small claim hearings took place 30 weeks following issue, down from 31 weeks in 2010 and lasted around an hour and 20 minutes.
- 275,938 applications were made for enforcing a monetary judgment amount (via warrants of execution, attachment of earnings orders, charging orders and third party debt orders) in 2011, a 13 per cent decrease compared to 2010 and a 49 per cent fall compared to 2008. The majority of the decline since 2008 followed large increases in court fees for these types of enforcements, with these coming into effect on 13 July 2009.
- 130,690 warrants of possession were issued, five per cent more than in 2010. In total, bailiffs made 59,338 repossessions of properties, 10 per cent more than in 2010. 25,487 of the properties were on behalf of mortgage lenders, eight per cent more than in 2010 and 29 per cent lower than the 2008 peak.

### **Commencing a case (Table 1.1 - 1.6)**

Historically, the normal method of taking someone to court regarding a civil matter is for the person doing so (the claimant) to complete a claim form and take it into a county court. However, the creation of electronic services has meant that claims for a specified amount of money (where the claim is for a set amount of money) or repossession of property can be completed via the internet. Money Claim Online ([www.moneyclaim.gov.uk/web/mcol/welcome](http://www.moneyclaim.gov.uk/web/mcol/welcome)) was launched in February 2002 and issues claims in the name of Northampton County Court. Possession Claim Online ([www.possessionclaim.gov.uk/pcol](http://www.possessionclaim.gov.uk/pcol)) was launched in October 2006 and issues claims in the name of the court relating to the postcode of the property. With both, the claimant can pay the court fee by credit or debit card. In addition, for Possession Claim Online, large issuers can pay by direct debit.

These services remove time consuming and repetitive administrative work from the court, reducing the cost of litigation and freeing up resources to do other work.

Claimants who issue a large number of claims for a specified amount of money each year (e.g. banks, credit card and store card issuers, utilities and solicitors specialising in debt recovery), can do so by filing them in a computer readable form to the Claim Production Centre (CPC). The CPC, set up in January 1990, guarantees issue and dispatch of claims within 24-48 hours. Most of the work of the CPC is done by the County Court Bulk Centre, a central processing unit attached to Northampton County Court which was set up in March 1992.

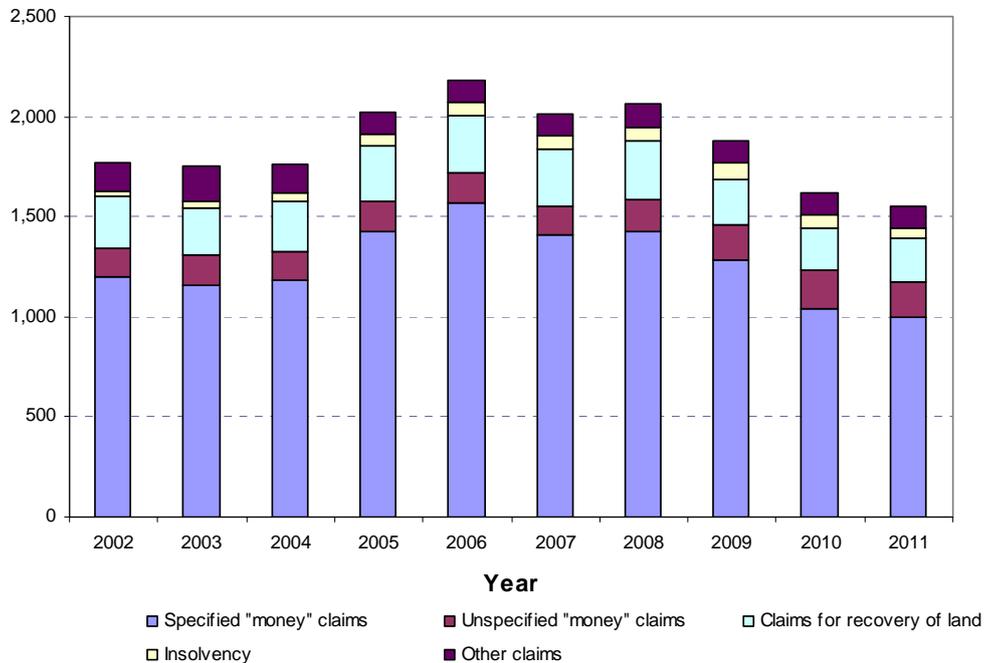
In total, there were 1,553,983 civil (non-family) proceedings started in 2011, a decrease of 4 per cent compared to 2010. This comprised the following types of cases:

- 995,895 money claims with specified claim amounts (typically related to debt issues), a decrease of four per cent compared with 2010 continuing the downward trend after peaking in 2006. Overall, 38 per cent had a value of up to £500 compared with 36 per cent in 2010 and 49 per cent in 2006. Just 12 per cent had a value over £5,000 compared to 13 per cent in 2010 and 12 per cent in 2006.
- 178,234 money claims with unspecified claim amounts (typically related to personal injury), a decrease of six per cent compared with 2010 and an increase of 23 per cent compared with 2006. 48 per cent of these had a value of over £1,000 and up to £5,000, 33 per cent a value over £5,000 and up to £15,000, and 15 per cent a value of over £15,000.
- 73,181 mortgage repossession claims, a decrease of three per cent compared with 2010. This followed a 47 per cent decline between the 2008 peak and 2010 which coincided with lower interest rates, a proactive approach from lenders in managing consumers in financial difficulties, and various interventions, such as introduction of the Mortgage Pre-Action Protocol (MPAP)., The MPAP gives clear guidance on what the courts expect lenders and borrowers to have done prior to a claim being issued. It encourages more pre-action contact between lender and borrower and as such enables more efficient use of the court's time and resources.
- 93,631 social landlord repossession claims, an increase of four per cent compared with 2010 but a 19 per cent decrease since 2006.
- 48,452 private landlord repossession claims (including accelerated procedure claims), eight per cent more than in 2010 and 15 per cent more than in 2006.

- 49,724 insolvency petitions, around 25 per cent less than in 2010 and approximately 35 per cent fewer than in 2009 after a 14 per cent increase between 2006 and 2009. The large decrease since 2009 reflects falls of approximately 42 per cent in bankruptcy petitions made by debtors, 10 per cent in petitions for company windings up, and seven per cent in bankruptcy petitions made by creditors.
- 114,866 non-money claims including for return of goods but not mortgage and landlord repossession, five per cent more than in 2010.

### Claims issued by type of case, 2002-2011

Number of claims / petitions  
(in thousands)



### Case Progression (Tables 1.7 - 1.11)

Whether the claim is issued online or through the county courts, the usual procedure is for a copy of the claim form and a response pack to be sent to (served on) the defendant who has 14 days to respond to the claim. The defendant can do nothing, pay up (either the full amount of the claim or in part), admit the claim and ask for more time to pay up (in full or part), and/or dispute (defend) the claim (in full or part). In 2011, 275,920 defences were made, a five per cent decrease compared with 2010 and fewer than in any of the previous years from 2006 onwards.

If the claim is defended, the usual procedure is for further information to be provided by the parties, following which the case is allocated by a judge to one of three case management tracks. In total, there were 170,615 allocations to track in 2011, one per cent more than in 2010 and 10 per cent higher than in 2006. This was made up of, in ascending order of case complexity and degree of judicial involvement:

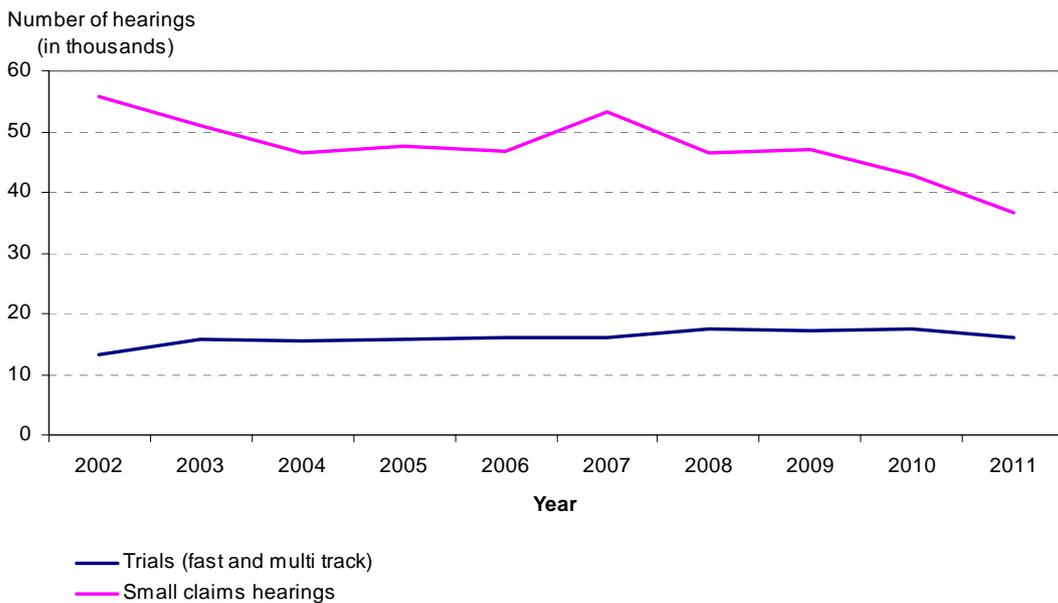
- 79,114 allocations to the small claim track, a decrease of one per cent compared to 2010 and representing the lowest yearly total from 2007 onwards. This track is for cases with a claim value of up to £5000 (or £1,000 for personal injury and housing disrepair matters) which do not require substantial pre-hearing preparation. The hearings are designed to be accessible to litigants in person (i.e. without representation by a solicitor or counsel), and are dealt with in about an hour.
- 68,542 allocations to the fast track, four per cent more than in 2010. This followed a 23 per cent increase between 2008 and 2010 reflecting the rise in the fast track upper (claim value) limit from £15,000 to £25,000 for all proceedings issued on or after 6 April 2009. The fast track is for cases with a claim value greater than £5,000 (or £1,000 for personal injury and housing disrepair matters) and not more than this upper limit, with issues not complex enough to merit more than a one day trial.
- 22,959 allocations to the multi track, a decrease of one per cent compared to 2010. This followed a 14 per cent decrease between 2008 and 2010 also reflecting the rise in the multi track lower (claim value) limit from over £15,000 to over £25,000. The multi track is for cases with a claim value exceeding the fast track upper limit with issues complex enough to merit preliminary hearings. They generally last more than one day at trial.

Around 31 per cent of cases allocated to track reached a trial or small claim hearing in 2011, with most settling or being withdrawn. In total, there were 52,660 trials and small claim hearings, 13 per cent less than in 2010 and lower than in any year from 2006 onwards.. This comprised:

- 15,941 fast and multi track trials, nine per cent less than in 2010 after rising by nine per cent between 2006 and 2010. Two thirds (67 per cent) of these related to unspecified money cases. On average, trials occurred 56 weeks following issue, up from 54 weeks in 2010 and 53 weeks in 2009 and 2006. They lasted between four and a half and five hours on average, around an hour longer than the average durations in each of the previous four years (2007 to 2010).

- 36,719 small claim hearings, 14 per cent less than in 2010 and 22 per cent lower than in 2009 and 2006. The vast majority (95 per cent) of these related to specified money cases. On average, small claim hearings occurred 30 weeks following issue, down from 31 weeks in 2009 and 2010 but up from 29 weeks in 2008 and 27 weeks in 2006 and 2007. They lasted around one hour and 20 minutes on average, similar to the previous five years.

### Hearings by type, 2002-2011



### Judgments (Tables 1.12 – 1.14)

There are many types of County Court Judgments. In specified money cases the majority follow either no response from the defendant within the allotted time period (a default judgment) or the claimant accepting the defendant's offer to pay all or part of the amount owed (a judgment by acceptance or determination). These judgments are entered as an administrative function and don't involve a judge. Overall, 700,742 judgments by default, acceptance and determination were made in 2011, with almost all relating to specified money claims and these accounting for around 70 per cent of specified money claims issued in 2011. Compared with 2010, there were seven per cent fewer judgments by default, acceptance and determination broadly reflecting the four per cent fall in specified money claims.

In possession cases, the standard procedure is for the claim being issued to be given a hearing date before a District Judge. Overall 153,033 claims led to possession orders being made in 2011, four per cent higher than in 2010 after a 30 per cent fall from the peak in 2008. Mortgage possession claims leading to orders fell by three per cent between 2010 and 2011 while landlord possession claims leading to orders increased by eight per cent. Most of the fall between 2008 and 2010 is explained by a 49 per cent fall in mortgage related claims leading to orders, following a 27 per cent rise between 2006 and 2008. Overall, 55 per cent of all claims leading to orders involved orders being made that were not suspended (possession given immediately or by a given date) in 2011, the same as in 2010. Of mortgage related claims leading to orders, 51 per cent involved orders being made that were not suspended. This compared to 53 per cent in 2010.

Registry Trust Limited (a private non-profit making company limited by guarantee) administers the statutory public register of Judgments, Orders and Fines. Overall, 708,155 county court judgments were registered with Registry Trust in 2011, three per cent less than in 2010. 80 per cent of these related to consumers, compared to 79 per cent in 2010. During the year, 104,130 entries were satisfied, the judgments having been paid in full after one month of the date of judgment. A further 72,626 entries were cancelled, the judgment having been made in error, set aside, reversed, or paid in full within one month of the date of judgment. All entries are automatically removed at the end of the sixth calendar year after the date of judgment. The Register is open for public inspection on payment of a statutory fee, and is used in particular by credit reference agencies to assist lenders in making responsible credit granting decisions, for the benefit of both consumers and businesses.

99,374 searches of the Registry were performed in 2011, mainly by individuals searching for themselves or others or by agents acting for law firms. This represented a 36 per cent increase compared to 2010, which can be at least partly explained by a reduction in the cost of a search following a price review in September 2011. Internet search requests increased by 39 per cent from 70,499 in 2010 to 97,651 in 2011. Other (postal and personal) searches fell by 27 per cent from 2,356 in 2010 to 1,723 in 2011. Additional information regarding the Register of Judgments, Orders and Fines can be obtained at [www.trustonline.org.uk](http://www.trustonline.org.uk).

## **Enforcement (Tables 1.15 – 1.18)**

There are various methods of enforcing judgments in the county courts. The most common method is the warrant of execution against a debtor's goods, where unless the amount due under the warrant is paid, saleable items owned by a defendant can be recovered by a bailiff acting on behalf of the court and sold. Other warrant types are for the repossession of property, the return of particular goods or items, and to enforce an order for which the penalty for failure to comply is imprisonment, the warrant of committal which authorises the bailiff to arrest and deliver the person to prison or the court. During 2011 129,778 warrants of execution were issued, 14 per cent lower than in 2010 and 62 per cent lower than in 2006, with the number having declined in each year. Overall 35 pence in the pound was recovered, with 84 pence in the pound being recovered from warrants of execution where the creditor had provided a correct address for the debtor.

Where repossession of property or the return of particular goods or items is sought, the claimant can apply for a warrant of possession or warrant of delivery. In 2011, there were 130,690 warrants of possession issued, five per cent higher than in 2010 but 18 per cent lower than the peak in 2008. In total, bailiffs made 59,338 repossessions of properties, 10 per cent higher than in 2010 but 15 per cent fewer than the 2008 peak. 25,487 of the properties were on behalf of mortgage lenders, eight per cent higher than in 2010 but 29 per cent lower than the 2008 peak. There were 2,145 warrants of delivery issued, two per cent lower than in 2010 and 14 per cent lower than in 2008.

To enforce an order for which the penalty for failure to comply is imprisonment, it is possible to apply for a warrant of committal which authorises the bailiff to arrest and deliver the person to prison or the Court. There were 914 warrants of committal issued in 2011, 34 per cent less than in 2010 and a 48 per cent decline from 2006.

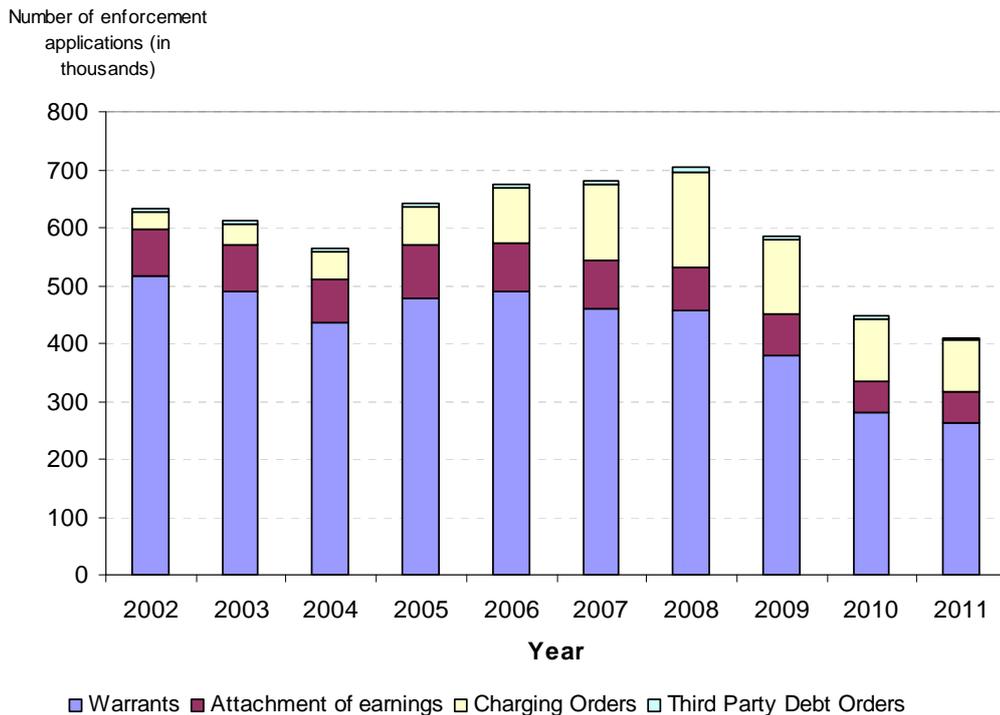
A judgment amount can also be enforced through the claimant applying for:

- An attachment of earnings order obliging the debtor's employer to deduct a set sum from the debtor's pay and forward it to the court. 51,737 applications were made for attachment of earnings orders in 2011, 5 per cent less than in 2010 and 39 per cent fewer than in 2006 with the number having declined in each year. Around 93 per cent of applications resulted in orders being made compared to 86 per cent in 2010 and 78 per cent in 2006.
- A charging order enabling the creditor to obtain security for the payment against a property owned by the debtor. 90,286 applications were made for charging orders in 2011, 17 per cent lower than in 2010 and 45 per cent fewer than in 2008 after rising by 77 per cent between 2006 and 2008. There were also 406 orders for sale made in 2011, 20 per cent fewer than in 2010.

- A third party debt order enabling the creditor to secure payment by freezing and then seizing money owed or payable by a third party to a debtor. 4,137 applications were made for third party debt orders in 2011, 4 per cent lower than in 2010.

In certain circumstances a debtor may apply to the county court to combine debts into an administration order (AO). The debtor must have a judgment debt and at least one other that he is unable to pay with the total indebtedness not exceeding £5,000. Once the debts have been examined and found to be correctly calculated a District Judge can make an order for the debtor to make regular payments to the court. The court will then distribute the money in the appropriate proportions to the creditors listed by the debtor. There were 437 AOs made in 2011, compared to 694 in 2010 and 2,945 in 2006. To assist in determining the most appropriate method of enforcing a judgment, the claimant can apply for an order to obtain information from the judgment debtors. This involves debtors being ordered to attend court to provide details of their means. There were 22,693 orders made to obtain information from debtors in 2011, one per cent fewer than in 2010.

### Enforcement applications by type, 2002-2011



## Chapter 2 - Family matters

*This chapter refers to family proceedings across all tiers of court*

Family law is the area of law that deals with:

- local authority intervention to protect children (public law);
- parental disputes concerning the upbringing of children (private law);
- decrees relating to marriage;
- financial provisions for children after divorce or relationship breakdown;
- domestic violence remedies; and
- adoption.

All family matters are dealt with at Family Proceedings Courts (which are part of the magistrates' courts), at county courts or in the Family Division of the High Court. Magistrates undergo specialist training before they sit in Family Proceedings Courts where procedures are very different from the criminal courts. Most matters affecting children are dealt with under the Children Act 1989 in all three levels of courts.

Information on the data sources used for the family court statistics can be found in **Annex A**. Explanations for some of the main terms used in this section can be found in the **Glossary**. The tables of detailed data can be found immediately following this section of commentary.

### **Key findings**

- The number of children involved in public law applications made by local authorities jumped from 19,760 in 2009 to 25,810 in 2010 following the publicity surrounding the Baby P case. Since then the numbers have increased further, and there were 29,492 children involved in public law applications in 2011; an increase of 13 per cent compared with 2010.
- The number of children involved in private law applications, which usually follow a breakdown in their parents' relationship, rose to a peak in 2009 and has since fallen back to 109,656 in 2011, a similar level to that last seen in 2006. The total number of children involved in private law applications decreased by 13 per cent compared with 2010, from 126,220 to 109,656. This decrease continues the fall seen since the peak in 2009.

- Divorce rates peaked in 2003, and have fallen since then, levelling off at around 120,000 divorces per year since 2008. The decline reflects the smaller married population and a higher average age at marriage. The younger a person marries, the higher the probability of getting divorced so the trend to delay marriage has partly contributed to the observed general decline in divorce over the last 20 years. There were 129,298 petitions filed for dissolution of marriage in 2011, a decrease of three per cent compared with the previous year; whilst the number of divorces decreased by one per cent from 2010.
- Both applications and orders made for domestic violence have been declining since 2002. Over this time both non-molestation and occupation orders have fallen, but a greater fall has been seen in occupation orders – in 2002 these made up one-third of the orders made, but in 2011 only one-sixth of orders were for occupation. Applications in county courts for domestic violence remedies decreased by 14 per cent in 2011 compared with 2010. This included applications for non-molestation orders which decreased by 13 per cent and applications for occupation orders which decreased by 17 per cent.

### **Matters affecting children: Public Law applications (Tables 2.1 – 2.3)**

Public law cases are those brought by local authorities or an authorised person (currently only the National Society for the Prevention of Cruelty to Children) and include matters such as care, supervision and emergency protection orders.

#### Care orders

A care order brings the child into the care of the applicant local authority and cannot be made in favour of any other party. The care order gives the local authority parental responsibility for the child and gives the local authority the power to determine the extent to which the child's parents and others with parental responsibility (who do not lose their parental responsibility on the making of the order) may meet their responsibility. The making of a care order, with respect to a child who is the subject of any section 8 order, discharges that order.

#### Supervision orders

A supervision order places the child under the supervision of the local authority or probation officer. While a supervision order is in force, it is the duty of the supervisor to advise, assist and befriend the child and take the necessary action to give effect to the order, including whether or not to apply for its variation or discharge.

## Emergency Protection Orders

An emergency protection order is used to secure the immediate safety of a child by removing the child to a place of safety, or by preventing the child's removal from a place of safety. Anyone, including a local authority, can apply for an emergency protection order if, for example, they believe that access to the child is being unreasonably refused.

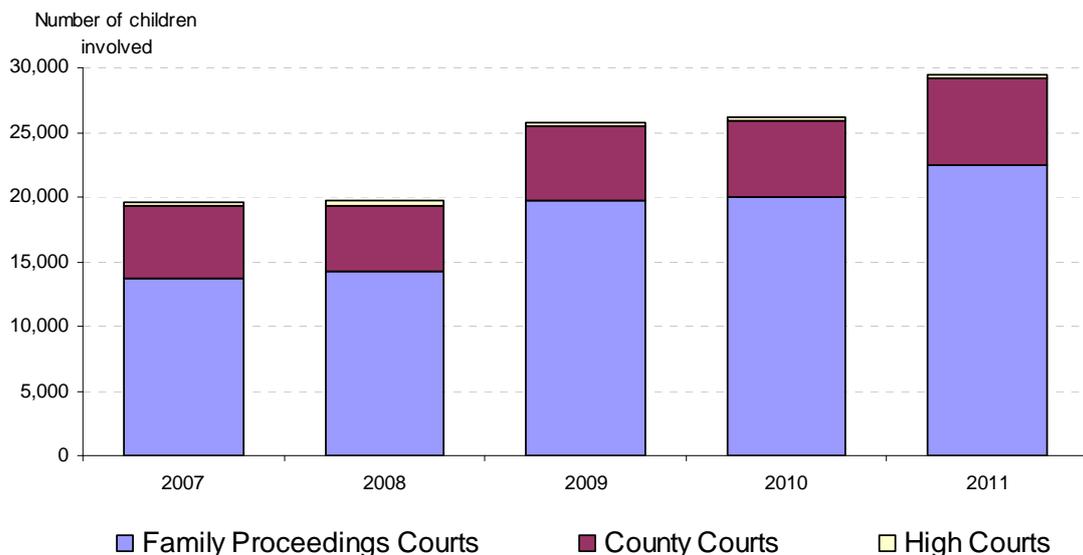
Under the relevant allocation of proceedings rules for family law, public law cases must start in the Family Proceedings Courts but may be transferred to the county courts in the following circumstances:

- to minimise delay
- to consolidate with other family proceedings
- where the matter is exceptionally grave, complex or important

In 2011, there were 29,492 children involved in public law applications, an increase of 13 per cent compared with 2010 (26,200). Similar levels of increase were seen in both Family Proceedings Courts, which receive around three-quarters of the total number of applications, and county courts.

Over two-thirds of public law applications are for care orders, while seven per cent of applications are for emergency protection orders and four per cent are for supervision orders.

### **Children involved in Public Law applications, by tier of court, 2007-2011**



## **Matters affecting children: Private Law applications (Tables 2.1 – 2.3)**

Private law cases are those brought by private individuals, usually in connection with divorce or the parents' separation. Order types include parental responsibility, "Section 8" orders (referring to the relevant section of the Children Act 1989), financial applications and special guardianship orders.

### Parental responsibility

Section 3(1) of the Children Act 1989 defines parental responsibility as "all the rights, duties, powers, responsibilities and authority which by law a parent of a child has in relation to the child and his property". Parental responsibility allows parents to make important decisions about their children's lives.

### Section 8 orders include

- residence – settles where the child should live and can be made in favour of anyone except a local authority. A residence order also gives the person named in the order parental responsibility for the child.
- contact – this order requires the person with whom the child lives to allow the child to have contact with the person named on the order. It can be granted to anyone except a local authority.
- prohibited steps – this order can be used to direct someone not to take specific action in relation to the child without the consent of the court. It could be used, for example, to stop a parent from moving the child to another country.
- specific issue – this order determines specific aspects as to the child's upbringing, for example, which religion s/he should be brought up in.

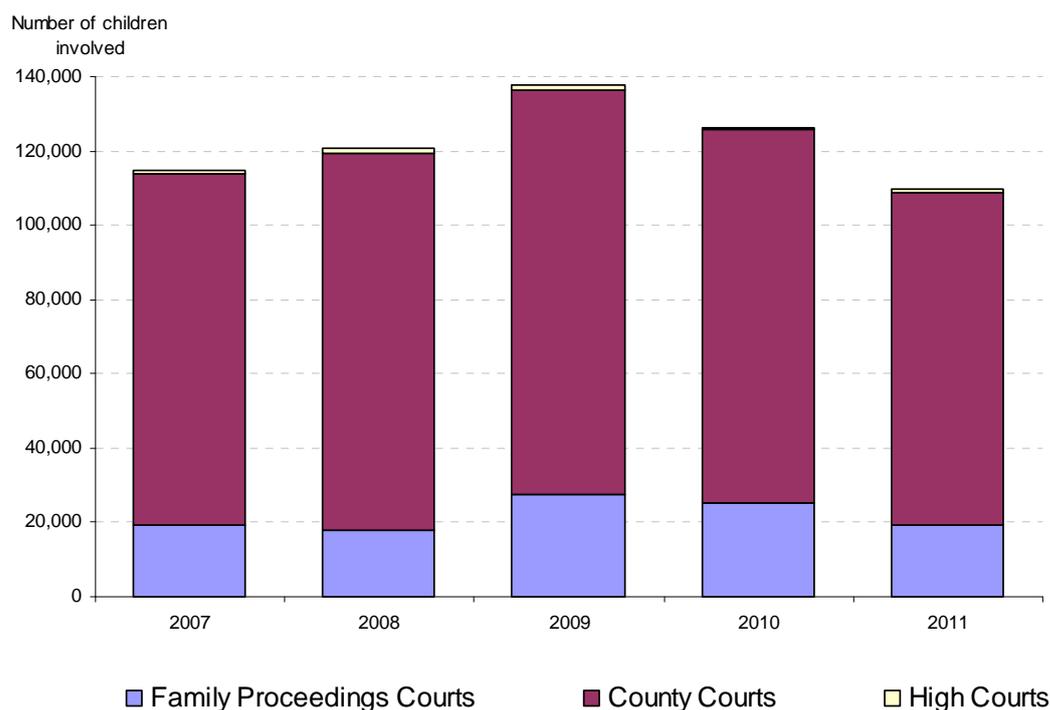
### Special Guardianship

The Adoption and Children Act 2002 introduced special guardianship orders, which give the special guardian legal parental responsibility for the child without taking away parental responsibility from the birth parents. This means that the child is no longer the responsibility of the local authority. The special guardian takes responsibility for all the day to day decisions and only needs to consult with the birth parents in exceptional circumstances.

In 2011, there were 109,656 children involved in private law applications, a decrease of 13 per cent compared with 2010 when there were 126,220, continuing the downward trend seen since the peak in 2009.

Applications for contact orders and residence orders each make up about one-third of the total private law applications, while applications for prohibited steps orders make up 17 per cent of the total.

## Children involved in Private Law applications, by tier of court, 2007-2011



### Disposal of Public and Private Law applications (Table 2.4)

Due to changes in the data collection process, a new compilation methodology has been introduced for the public and private law disposal data, meaning that figures for 2011 cannot be directly compared with previously published statistics.

There are four ways in which an order can be disposed of:

- withdrawn applications – applications can only be withdrawn by order of the court
- order refused – in public law proceedings an order is refused if the grounds are not proved and the court has dismissed the application. In private law proceedings the court may refuse to make an order or make an order of no order
- order of no order – this is made if the court has applied the principle of non-intervention under section 1(5) of the Act. This provides that the court shall not make an order unless it considers that doing so would be better for the child than not making an order at all
- order made.

In 2011, there were 32,739 children involved in disposals of public law cases, including 31,515 orders made, 792 applications withdrawn, 350 orders of no order and 72 orders refused. Just over a third of all the public law disposals were for care and substitute supervision for care orders (11,411).

There were 183,718 children involved in disposals of private law cases in 2011, of which 178,517 involved orders made. The majority of disposals were for contact orders (111,302).

Please note that these figures are not directly comparable with figures published last year due to a change in the methodology for producing the figures – see Annex A for further details.

Statistics on the time taken to complete care and supervision cases in the family courts of England and Wales is published in MoJ's bulletin 'Court Statistics Quarterly'. The relevant table gives summary statistics showing the time, in weeks, between the date an application for a care or supervision order was lodged and the date a care, supervision, or other substantive order was made in the case, for those cases disposed of during each quarter from quarter 2 (April-June) 2010. The bulletin can be found on the MoJ website at:

[www.justice.gov.uk/publications/statistics-and-data/courts-and-sentencing/judicial-quarterly.htm](http://www.justice.gov.uk/publications/statistics-and-data/courts-and-sentencing/judicial-quarterly.htm)

### **Matrimonial matters (Table 2.5)**

There are two ways to dissolve a marriage. The vast majority is with a decree absolute of divorce, which ends a valid marriage. The other is a decree of nullity, which declares that the marriage itself is void, i.e. no valid marriage ever existed, or voidable, i.e. the marriage was valid unless annulled. No petition may be made for divorce within the first year of marriage.

#### Divorce

To obtain a decree of divorce the marriage must be proved to have broken down irretrievably. This must be done on proof of one or more of the following facts:

- (a) adultery
- (b) behaviour with which the petitioner cannot reasonably be expected to live
- (c) desertion of at least two years
- (d) two years separation where the respondent consents
- (e) five years separation without consent.

## Nullity

A void marriage is one that is legally invalid because, for example:

- (a) either party was under the age of sixteen at the time of the marriage
- (b) either party was already married
- (c) the parties are prohibited from marrying, for example father and daughter.

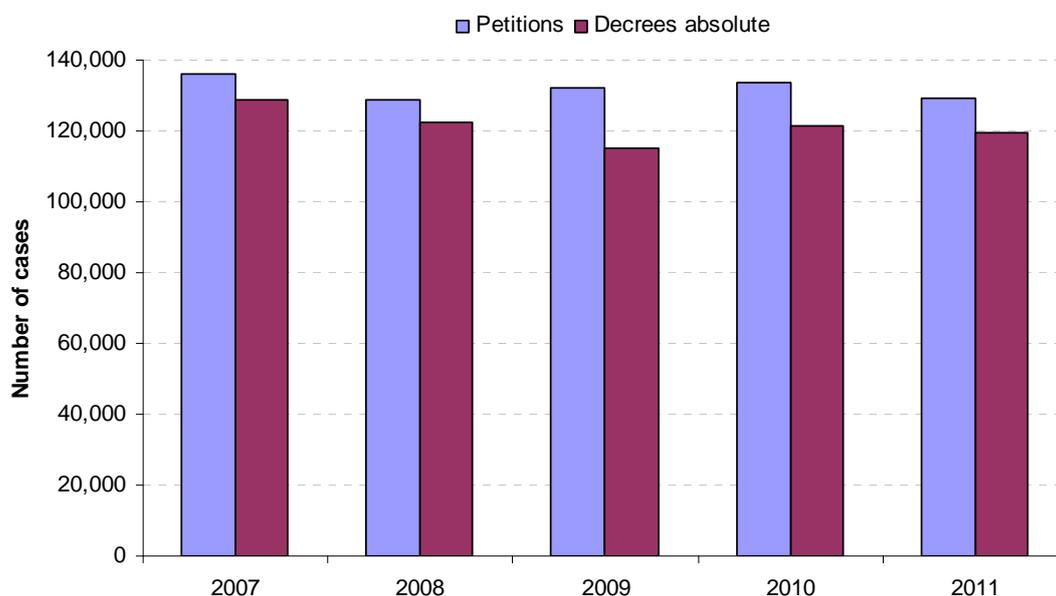
Examples of voidable marriages are those:

- (a) not consummated due to incapacity or wilful refusal (most nullities are on these grounds)
- (b) where one party was suffering from a venereal disease in a communicable form, or was pregnant by someone else at the time of marriage.

There were 129,298 petitions filed for dissolution of marriage in 2011; a decrease of three per cent compared to 2010, which continue the overall downward trend seen since the 2002.

The number of decrees absolute granted for dissolution of marriage decreased by one per cent, from 121,265 in 2010 to 119,610 in 2011, also following the overall downward trend seen in recent years.

### **Dissolution of Marriage: Petitions and Decrees Absolute Granted, 2007-2011**



Statistics on the number of divorces occurring each year in England and Wales are also published by the Office for National Statistics. Please see **Annex A** for more explanation of the differences between the ONS figures and the statistics presented here.

## Judicial Separation

An alternative to divorce is a decree of judicial separation. This does not dissolve the marriage but absolves the parties from the obligation to live together. This procedure might, for instance, be used if religious beliefs forbid or discourage divorce.

In 2011 there were 227 petitions filed for judicial separation, a decrease of 24 per cent compared with the previous year, and continuing the steady downward trend.

### **Ancillary relief (Tables 2.6 – 2.7)**

During or after a divorce, the annulment of a marriage (nullity) or judicial separation, there may still be a need for the court to settle disputes over money or property. The court can make a financial order. This is known as ancillary relief and may deal with the sale or transfer of property, maintenance payments (for example weekly or monthly maintenance), a lump sum payment and/or a pension sharing or attachment order.

In 2011 a total of 80,601 applications for ancillary relief were disposed of; an increase of 2 per cent from the 82,290 recorded for 2010. Of the disposals made in 2011, the majority (70 per cent) were not contested, while a further 24 per cent of orders were made by consent after initially being contested. Most disposals made in 2011 were for property adjustment orders (26,185) or lump sum orders (24,034).

Over half (58 per cent) of those cases which were contested or initially contested were in respect of one or more children.

Other orders for financial provision are not dependent upon divorce proceedings and may be made for children. The Child Maintenance and Other Payments Act 2008 led to the creation of the Child Maintenance Enforcement Commission (CMEC) which replaced the Child Support Agency (CSA), although the CSA retained its existing caseload. The Act also removed the requirement for all parents in receipt of benefit to go through the CMEC even if they could reach agreement. Parents who were not on benefit were previously allowed to come to courts for consent orders. This change is likely to increase the number of parties that come to court for maintenance consent orders.

## **Domestic violence (Table 2.8 – 2.9)**

Part IV of the Family Law Act 1996 provides single and unified domestic violence remedies in county courts and magistrates' courts, with the vast majority carried out in the former. A range of people can apply to the court: spouses, cohabitants, ex-cohabitants, those who live or have lived in the same household (other than by reason of one of them being the other's employee, tenant, lodger or boarder), certain relatives (e.g. parents, grandparents, in-laws, brothers, sisters), and those who have agreed to marry one another.

Two types of order can be granted:

- a non-molestation order, which can either prohibit particular behaviour or general molestation;
- an occupation order, which can define or regulate rights of occupation of the home.

Where the court makes an occupation order and it appears to the court that the respondent has used or threatened violence against the applicant or child, then the court must attach a power of arrest unless it is satisfied that the applicant or child will be adequately protected without such a power. In July 2007, section 1 of the Domestic Violence, Crime and Victims Act 2004 came into force, making the breach of a non-molestation order a criminal offence. A power of arrest is therefore no longer required on a non-molestation order but instead include a penal notice.

The court may also add an exclusion requirement to an emergency protection order or interim care order made under the Children Act 1989. This means a suspected abuser may be removed from the home, rather than the child.

Please note that the statistics presented in this report relate to applications for, and grants of, the above domestic violence order types by the family courts. They do not relate to prosecutions or convictions for criminal offences regarding matters of domestic violence, nor do they cover prosecutions or convictions for breaching a non-molestation order.

Applications made in the county courts for domestic violence remedies decreased by 14 per cent in 2011 compared with 2010, from 23,900 to 20,700 applications.

Within this overall decrease, applications for non-molestation orders decreased by 13 per cent (from 17,843 to 15,573), while applications for occupation orders decreased by 17 per cent (from 6,106 to 5,098).

A total of 21,207 domestic violence orders were made in county courts in 2011, a decrease of 12 per cent from the 24,087 made in 2010. As the breach of a non-molestation order was made a criminal and arrestable offence from July 2007, with the power of arrest inherent within it, it became no longer necessary for courts to attach a separate power of arrest to these orders.

### **Forced Marriage Protection Orders (Table 2.10)**

The Forced Marriage (Civil Protection) Act 2007 came into force on 25 November 2008. The Act amended Part IV of the Family Law Act to enable 15 designated county courts (as well as the High Court) to make Forced Marriage Protection Orders to prevent forced marriages from occurring and to offer protection to victims who might have already been forced into a marriage.

A total of 340 applications for an FMPO have been made since their introduction up to the end of 2011, with 414 orders made in the same period. The number of orders made exceeds the number of applications as FMPOs are sometimes made during the course of applications for other family orders, and there is no differentiation between interim orders and final orders.

### **Probate (Tables 2.11 – 2.12)**

The Probate Service forms part of the Family Division of the High Court. It deals with 'non-contentious' probate business (i.e. where there is no dispute about the validity of a will or entitlement to take a grant), and issues grants of representation – either probate (when the deceased person left a valid will) or letters of administration (usually when there is no valid will). These grants appoint people – known as personal representatives – to administer the deceased person's estate.

The Probate Service is currently made up of the Principal Registry in London, 11 District Probate Registries and 18 Probate Sub-Registries throughout England and Wales. There are also a number of Probate offices which are opened between once a week and once every two months to provide a local service for personal applicants.

In 2011, 261,352 grants of representation were issued, up six per cent from 2010 reversing the downward trend between 2007 and 2010.

In 2011, 86,966 of the grants were personal applications and 174,386 were made by solicitors. The deceased left a will in 85 per cent of all cases for 2011 (222,660).

## Chapter 3: Magistrates' Courts

*This chapter refers to criminal proceedings in the magistrates' courts. Information on family proceedings dealt with in the magistrates' courts can be found in Chapter 2.*

Virtually all criminal court cases start in the magistrates' courts. The less serious offences are handled entirely in magistrates' courts, with over 90 per cent of all cases being dealt with in this way. The more serious offences are passed on to the Crown Court, either for sentencing after the defendant has been found guilty in the magistrates' court, or for full trial with a judge and jury. More information on cases passed on to the Crown Court can be found in Chapter 4.

Magistrates deal with three kinds of cases:

- Summary offences. These are less serious cases, such as motoring offences and minor assaults, where the defendant is not usually entitled to trial by jury. They are disposed of in the magistrates' courts.

More serious offences are Indictable offences. These include indictable-only and either-way offences.

- Either-way offences. As the name implies, these can be dealt with either by the magistrates or before a judge and jury at the Crown Court. Such offences include theft and handling stolen goods. A defendant can insist on their right to trial in the Crown Court. Similarly, magistrates can decide that a case is sufficiently serious that it should be dealt with in the Crown Court - which can impose tougher sentences if the defendant is found guilty.
- Indictable-only offences, such as murder, manslaughter, rape and robbery. These must be heard at a Crown Court. If the case is an indictable-only offence, the involvement of the magistrates' court is usually brief. A decision will be made on whether to grant bail, and other legal issues such as reporting restrictions will be considered. The case will then be passed to the Crown Court.

If the case is to be dealt with in the magistrates' court, the defendant(s) are asked to enter a plea. If they plead guilty or are later found to be guilty, the magistrates can impose a sentence of up to 6 months' imprisonment or a fine of up to £5,000. If found not guilty ('acquitted'), defendants are judged innocent in the eyes of the law and will be free to go – provided there are no other cases against them outstanding.

Cases are either heard by two or three lay magistrates or by one district judge. The lay magistrates, or 'Justices of the Peace', as they are also known, are local people who volunteer their services. They do not require formal legal qualifications, but will have undertaken a training programme, including court and prison visits, to develop

the necessary skills. They are given legal and procedural advice by qualified clerks. On the other hand, district judges are legally qualified, paid, full-time professionals and are usually based in the larger cities. They normally hear the more complex or sensitive cases.

As of April 2011, there were 26,966 magistrates, 137 district judges and 143 deputy district judges operating in magistrates' courts throughout England & Wales.

Information on the data sources used for the magistrates' courts statistics can be found in **Annex A**. Explanations for some of the main terms used in this chapter can be found in the **Glossary**. The tables of detailed data can be found immediately following this section of commentary.

### **Defendants Proceeded Against (Tables 3.1 – 3.2)**

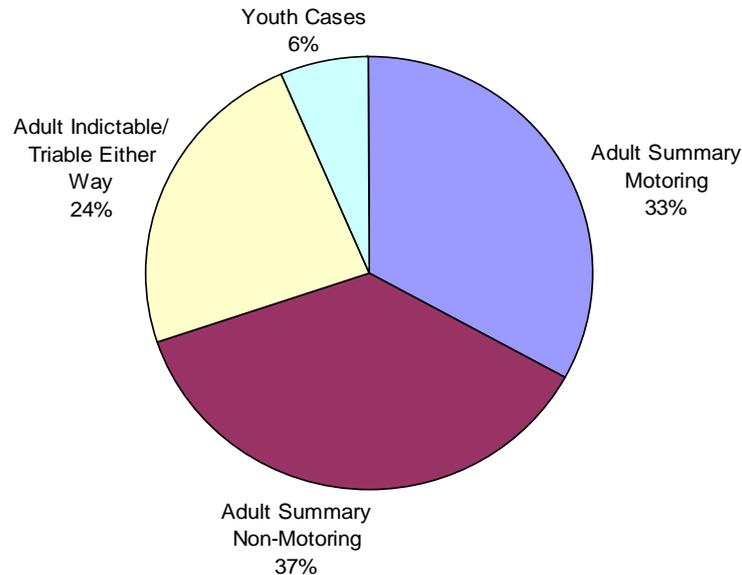
These statistics consider cases completed in magistrates' courts, and are case-based, so where a case has more than one offence, only the most serious offence is counted.

In 2011, 1.62 million defendants were proceeded against for criminal offences (excluding adult breaches) in magistrates' courts, a decrease of four per cent compared with 2010. The decrease in the number of criminal proceedings was primarily the result of fewer proceedings for adult summary motoring (a fall of ten per cent) and indictable offences (a fall of six per cent).

Since 2008, the number of defendants proceeded against for criminal offences has decreased by 15 per cent, as a result of the continued downward trends in the number of adult summary motoring and indictable proceedings.

In 2011, there were 385,000 defendants in adult indictable/triable-either way cases, which represented just under a quarter (22 per cent) of defendants in criminal cases. There were 595,000 adult summary non-motoring cases, comprising around 34 per cent of defendants, and 533,000 adult summary motoring cases, comprising 31 per cent of criminal cases. In addition, there were 105,000 youth proceedings in the magistrates' court, representing six per cent of all defendants in criminal cases, and a 20 per cent fall on 2010.

## Defendants proceeding against in magistrates' courts (excluding adult breaches), by offence type, 2011



### **Trials (Tables 3.3 – 3.5)**

A trial in the magistrates' court is a hearing at which the prosecution produces evidence to prove the case against the defendant. If a defendant pleads not guilty, or does not give a plea for a summary offence, then there is a trial. Similarly, for either-way offences, a trial may occur in the magistrates' courts.

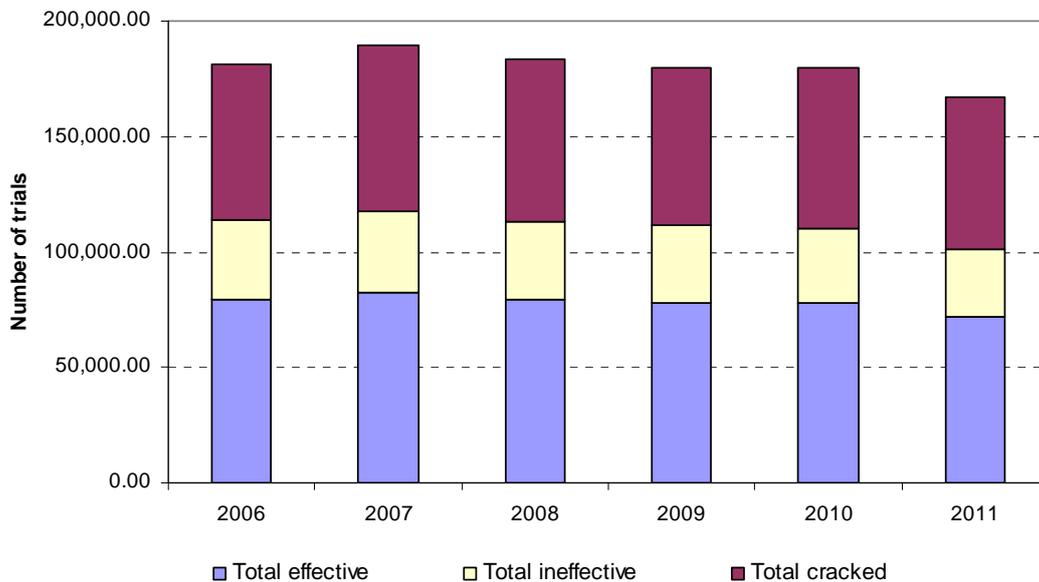
Magistrates' courts record the number and outcome of trials. Trial outcomes are listed as 'Effective', 'Ineffective' or 'Cracked', according to the following definitions:

- Effective Trial – A trial that commences on the day it is scheduled, and has an outcome in that a verdict is reached or the case is concluded.
  
- Cracked Trial – On the trial date no further trial time is required and the case is closed. This may be because the defendant offers acceptable pleas or the prosecution offers no evidence
  
- Ineffective Trial – On the trial date, the trial does not go ahead due to action or inaction by one or more of the prosecution, the defence or the court and a further listing for trial is required.

If a trial was recorded as either ineffective or cracked, the main reason why the trial did not take place is also recorded. Generally speaking, efficient case progression and good inter-agency communication will lead to higher numbers of effective trials and lower numbers of ineffective and cracked trials. Ineffective and cracked trials waste court time, create additional costs to the justice system and cause inconvenience and delay to witnesses and other court users; therefore effectiveness of trials is important for court and case management.

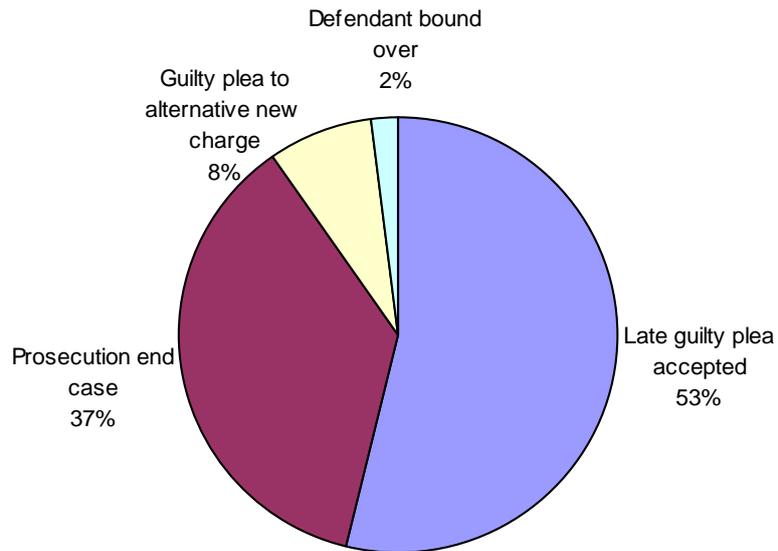
In 2011, 166,808 trials were recorded in the magistrates' courts, a decrease of seven per cent compared with the previous year. Of the total number of trials recorded, 43 per cent were recorded as effective, 39 per cent were recorded as cracked, and 18 per cent were recorded as ineffective.

### Number of trials in magistrates' courts by outcome, 2006-2011



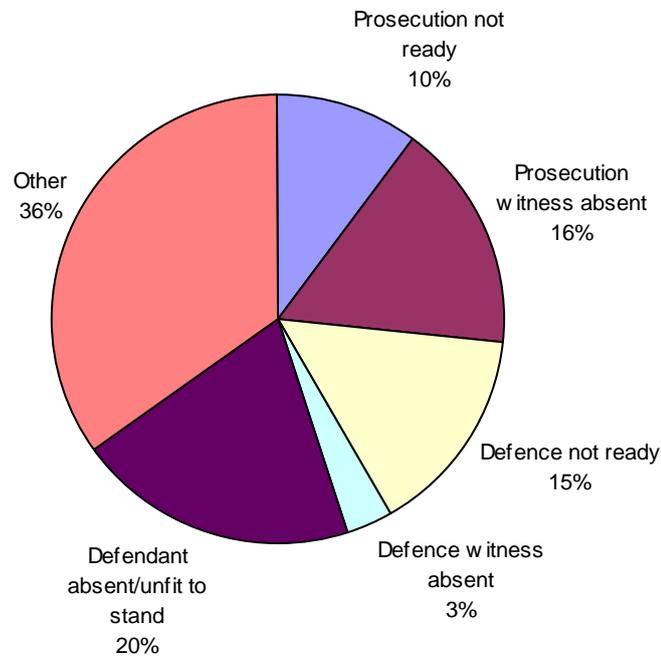
Since 2006, the proportion of cracked trials has increased by two percentage points to 39 per cent. Of these “cracked” trials, 54 per cent of cracked trials were due to a late guilty plea being accepted, and 37 per cent were cracked due to the prosecution ending the case.

### Key reasons for cracked trials in 2011



Some 18 per cent of trials were recorded as ineffective in 2011, a percentage which has remained consistent over recent years. The main reasons for ineffective trials included the absence of the defendant (20 per cent of all ineffective trials) and the absence of a prosecution witness (16 per cent of all ineffective trials).

### Key reasons for ineffective trials in 2011



## Enforcement (Table 3.6)

Fines are the most commonly used sentence in magistrates' courts. The Courts Act 2003 provided a number of new enforcement sanctions (e.g. clamping, registration) which have since been subject to national rollout by HMCTS, and which have contributed to the increase in the total value of fines paid in recent years.

The amount paid in England and Wales in 2011 was £277 million, a 1 per cent decrease from the previous year.

## Timeliness of criminal proceedings in the magistrates' courts (Tables 3.7 – 3.9)

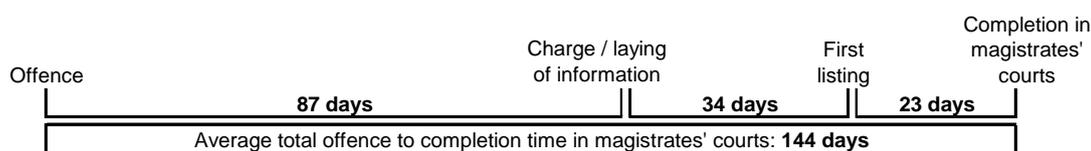
This section contains statistics on the timeliness of criminal proceedings in magistrates' courts, as well as providing information on hearings and pleas. These statistics are sourced from the administrative data systems used in the magistrates' courts.

In addition, this chapter contains statistics on the overall timeliness of criminal proceedings across both magistrates' and Crown tiers of the criminal courts system, derived by linking magistrates' and Crown records. Annex A of this report provides more information about the data sources used and how records have been matched.

For defendants whose case completed in the magistrates' courts in 2011, the average offence to completion time for all criminal cases was 144 days. This is an increase of three per cent compared to last year and is due to increase in the time taken from offence to first listing for summary cases. Of those 144 days, there were, on average:

- 87 days between the date of the offence and the date the defendant was charged or summonsed to court;
- 34 days between the date the defendant was charged or summonsed to court and the first listing of the case in a magistrates' court;
- 23 days between the first listing of the case in a magistrates' court.

### Average offence to completion time, all criminal proceedings in the magistrates' courts, 2011



Indictable/Triable-either-way proceedings took an average of 120 days from offence to the date the defendant's case was completed in the magistrates' courts, a two per cent decrease compared to 2010.

Summary motoring proceedings took an average of 177 days from the date an offence was committed to the date it was completed in the magistrates' courts, compared with 138 days for summary non-motoring proceedings.

**Average number of days for all criminal cases proceeded against in magistrates' courts, by type of offence, 2011**

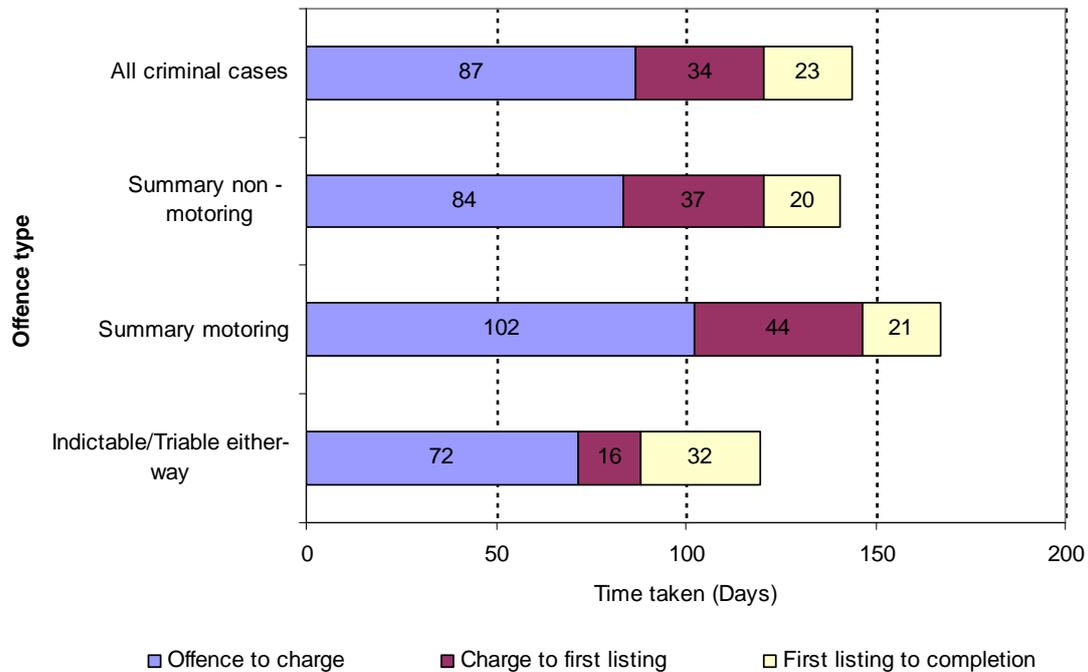
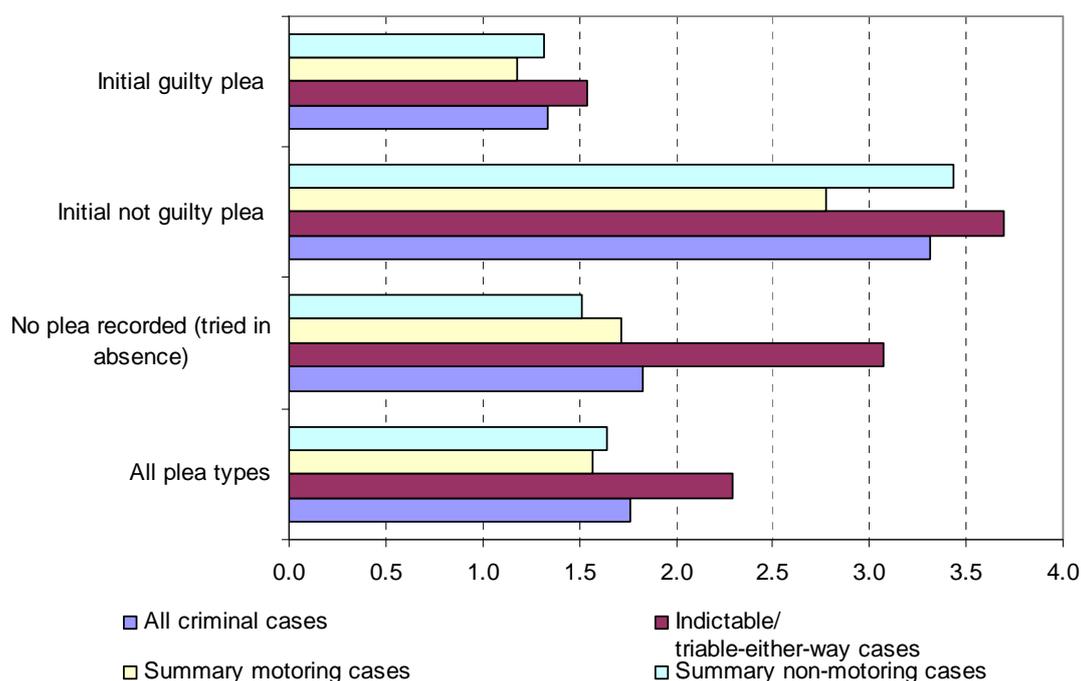


Table 3.8 provides the average number of hearings and cases completed at first listing in the magistrates' courts. For all criminal cases the average number of hearings per defendant was 1.78 in 2011. This is a decrease of 1 per cent from 2010. There were also a higher proportion of cases completed at the first listing in 2011 compared to 2010, increasing one percentage point to 62 per cent. All other offence types also experienced both a drop in the average number of hearings and an increase in the proportion of cases completed at first listing. On average summary motoring cases require the least number of hearings to reach a conclusion (1.56 hearings in 2011).

Table 3.9 gives a breakdown of the timeliness of cases by the initial plea and type of offence. In cases where an initial guilty plea was entered, the timeliness from offence to completion is shorter than for initial not guilty or cases where no plea is given. For all criminal cases initial guilty pleas complete on average after 98 days, compared to 170 days for cases with an initial not guilty plea and cases where no plea is given.

### Average number of hearings in magistrates' courts, by stage of proceedings and offence type, 2011



Furthermore, fewer hearings were required on average to complete cases where the defendant's initial plea is guilty (1.34 hearings for all criminal cases in 2011). In 2011, 80 per cent of all criminal cases involving an initial guilty plea were completed at the first listing, compared to 61 per cent of cases where no plea is given and 3 per cent of not guilty pleas.

Excluding cases sent or committed for trial in the Crown Court, an initial guilty plea was entered in 39 per cent of all criminal proceedings, an initial not guilty plea was entered in eight per cent and no plea was entered in 53 per cent.

### Overall timeliness of criminal proceedings in the criminal courts

This report contains statistics on the overall timeliness of criminal proceedings, which are distinct from timeliness statistics for the magistrates' courts, in the section above, as they relate to the timeliness of criminal proceedings across both magistrates' and Crown tiers of the criminal courts (see Tables 3.7 to 3.12). Data for these tables are sourced from the administrative data systems used in the magistrates' courts and Crown Court, and have been produced by linking together records held on the two datasets. Annex A of this report provides more information about the data sources used and how records have been matched.

The statistics measure the overall offence to completion time in the criminal courts, including intermediate stages in that process. "Offence to completion time" refers to the time taken between the date an offence is committed and date of the final

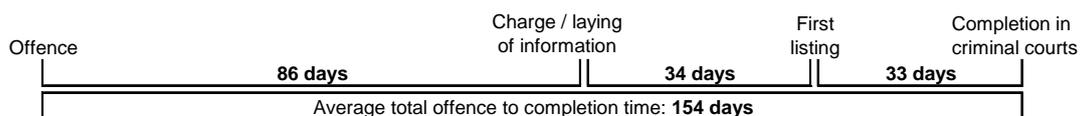
outcome (completion) of the defendant's case, in either the magistrates' courts or the Crown Court. For defendants whose case is sent or committed to the Crown Court, these statistics measure the entire duration from offence to completion in the Crown Court, including the time the case was initially dealt with in the magistrates' courts before being passed to the Crown Court.

For criminal proceedings, the time between the date of an offence and the date of charge/laying of information involves gathering evidence and charging or laying information against the defendant. The time between the date of the first hearing in the magistrates' court, also known as the first listing, and the date a case was completed in the magistrates' courts, relates to the time taken to conclude the case in court.

For defendants whose case completed during 2011, the average offence to completion time for all criminal cases was 154 days, an increase of two per cent compared to last year. Of those 154 days, there were, on average:

- 86 days between the date of the offence and the date the defendant was charged or summonsed to court;
- 34 days between the date the defendant was charged or summonsed to court and the first listing of the case in a magistrates' court;
- 33 days between the first listing of the case in a magistrates' court.

### Average offence to completion time, all criminal proceedings, 2011



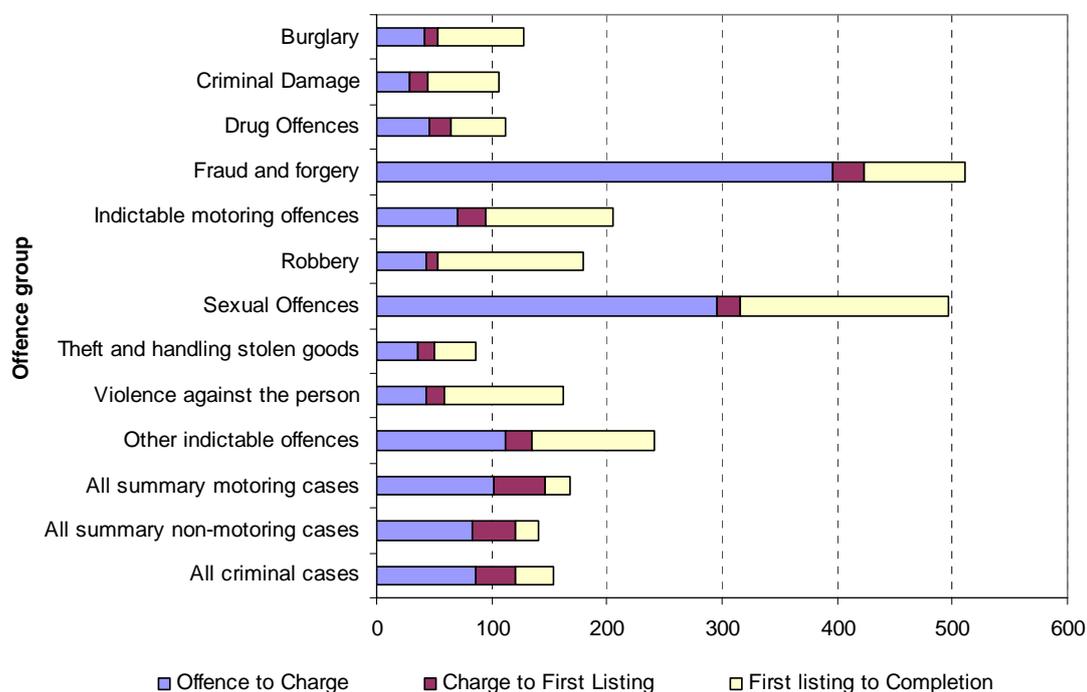
Note: Figures do not add to the total due to rounding

Indictable/triable-either-way proceedings took an average of 156 days from offence to the date the defendant's case was completed in the magistrates' courts, a two per cent decrease compared to 2010.

Summary motoring proceedings took an average of 170 days from the date an offence was committed to the date it was concluded compared with 138 days for summary non-motoring proceedings.

Statistics are also available broken down by broad offence group. For criminal proceedings which completed in 2011, those which related to the theft and handling of stolen goods took the shortest length of time, concluding on average within 86 days of the offence being committed. On average, criminal proceedings involving fraud and forgery offences, and criminal proceedings involving sexual offences took the longest time to conclude, at 511 days and 497 days respectively. However, for both fraud and forgery and sexual offences, there is a long time between offence and charge. This is likely to be due to these offences often being reported to the police some time after the actual offence took place. In 2011, sexual offences took an average of 181 days from first listing to completion in either the magistrates' courts or the Crown Court.

### Timeliness of criminal proceedings in criminal courts, by offence group, 2011



In terms of regional timeliness (Table 3.12), on average, criminal cases take the shortest time from offence to completion in the North East (142 days) and the North West (149 days), and the longest to reach a conclusion in London at 161 days, on average.

The North East has the shortest offence to completion time on average for both indictable/triable either way cases (142 days) and summary non-motoring cases (125 days). For Summary non-motoring cases the South East (161 days) the lowest offence to completion time on average. London has the highest offence to completion time for indictable/triable either way cases and summary non-motoring cases (165 and 151 days on average, respectively). While summary motoring cases take the longest time to reach a conclusion on average in Wales (177 days).

## Chapter 4 - The Crown Court

The Crown Court sits in a number of different locations across England and Wales. It deals with serious criminal cases which include:

- Cases sent for trial by magistrates' courts in respect of 'indictable only' offences (i.e. those which can only be heard by the Crown Court).
- 'Either way' offences committed for trial (i.e. those which can be heard in either a magistrates' court or the Crown Court).
- Defendants committed from magistrates' courts for sentence.
- Appeals against decisions of magistrates' courts.

The Crown Court has jurisdiction to deal with all trials on indictment and to hear appeals, proceedings on committal of a person for sentence and committal following breach of a community order, and original proceedings in civil matters under certain statutes. It is a unitary court, but is currently based at 76 centres across England and Wales. There are three different types of centre based on the type of work they deal with. They are as follows:

- First-tier centres are those visited by High Court Judges for Crown Court and High Court Civil work. (Crown Court work includes all classes of offence in criminal proceedings.)
- Second-tier centres are those visited by High Court Judges for Crown Court work only. (Crown Court work includes all classes of offence in criminal proceedings.)
- Third-tier centres are not normally visited by High Court Judges and handle Crown Court work only. (Crown Court work includes class 2 and 3 offences in criminal proceedings.)

Circuit Judges and Recorders deal with Crown Court work in all three types of centre.

Information on the data sources used for the Crown Court statistics can be found in **Annex A**. Explanations for some of the main terms used in this section can be found in the **Glossary**. The tables of detailed data can be found immediately following this section of commentary.

## **Seriousness of offences**

For the purpose of trial in the Crown Court, offences are divided into three classes of seriousness according to directions given by the Lord Chief Justice, with the concurrence of the Lord Chancellor. From the 6 June 2005, the method of classifying offences was amended such that all class 4 offences were reclassified to class 3 offences.

Class 1 – Normally heard by a High Court Judge, these are the most serious offences which include treason and murder.

Class 2 – Offences which include rape that are usually heard by a Circuit Judge under the authority of the Presiding Judge.

Class 3 – Includes all other offences, such as kidnapping, burglary, grievous bodily harm and robbery, which are normally tried by a Circuit Judge or Recorder.

## **Sent for Trial – ‘Indictable Only’ Offences**

Since the 15 January 2001 all ‘indictable only’ cases have been ‘sent for trial’ to the Crown Court after they have had their first appearance in a magistrates’ court. This procedure under Section 51 of the Crime and Disorder Act 1998 replaced committal proceedings and reduces the number of hearings these cases have at magistrates’ court. While the time that ‘indictable only’ cases spend in the Crown Court will increase, the overall time spent in the Criminal Justice System from arrest to sentence will decrease.

## **Committals for Trial – ‘Either Way’ Offences**

‘Either way’ offences may be committed by magistrates’ courts to the Crown Court for trial. The magistrates are required to ask defendants to indicate their plea to the charge. Where a guilty plea is indicated, the summary trial procedure is deemed to have been complied with and the defendant is deemed to have pleaded guilty under it. The defendant can then be sentenced or committed to the Crown Court for sentence.

Where a defendant indicates a not guilty plea or gives no indication of their plea, the court, having considered various factors, including representations by the prosecution and the defence, indicates whether it considers the offence more suitable for a summary trial or an indictment. A court may only proceed to summary trial with the consent of the defendant who may elect to be tried by a jury in the Crown Court.

## **Committals for Sentence**

Provisions in the Magistrates' Courts Act 1980 allow magistrates to commit defendants who have been summarily convicted of an 'either way' offence to the Crown Court for sentence. The magistrates must be of the opinion that the offence or the offence combined with one or more associated offences is so serious that a greater punishment should be imposed than they have the power to enforce or, in the case of a violent or sexual offence, that a sentence of imprisonment for a longer term than they have power to impose is necessary to protect the public from serious harm. Committals may also arise from breaches of the terms of, for example, Community Orders or suspended sentences of imprisonment where the Crown Court Judge did not reserve any breach to the Crown Court.

## **Appeals**

In its appellate jurisdiction the Crown Court deals mainly with appeals against conviction and/or sentence in respect of criminal offences, including consequential orders, e.g. disqualification from driving, and against the making of certain stand alone orders, e.g. Anti-Social Behaviour Orders. The Crown Court may dismiss or allow the appeal and vary all or any part of the sentence. Appeals are usually heard by a Circuit Judge sitting with no more than four lay magistrates (normally two).

## **Plea and Case Management**

The Criminal Procedure Rules 2005 introduced new principles of case management for cases sent or committed for trial. On receipt to the Crown Court, such cases have a Plea and Case Management Hearing (PCMH) at which directions may be given for the future conduct of the case including, if appropriate, the fixing of the date for trial or the warned period for its listing. The first hearing in a sent for trial case may be a preliminary hearing which is then followed by a PCMH.

## **Bench Warrants**

A bench warrant is issued for a person deemed to be in contempt of court – usually as a result of that person's failure to appear at their court appearance. For reporting purposes once a bench warrant is issued the case is considered disposed of. A bench warrant can also be issued in a magistrates' court for breaches of police bail.

A person is not held under the warrant, but has to be produced before the court within 24 hours of arrest. At this point they may be remanded in custody or re-bailed by the court once the bench warrant is executed and the defendant is brought before the court for the original offence. Often, if a person is arrested on a bench warrant, they are held without bail until they appear in court for whatever incident they originally failed to appear for.

## **Findings for 2011**

The information contained within this chapter was produced using a Management Information System (MIS) data warehouse which provides the Ministry of Justice with access to more complete data than previously possible. MIS receives monthly updates from the Courts Record System (CREST), a computer-based data collection facility used by staff at each court to record case details. CREST is a live-system which allows court staff to enter late information and update previously submitted information. As such, published figures are subject to subsequent revisions in later volumes of this publication.

### **Key findings**

- 91,910 cases were committed/ sent for trial to the Crown Court in 2011. This represents a decrease of six per cent compared to 2010. Disposals of cases committed/sent for trial also decreased by six per cent to 93,960 in 2011.
- Some 42,981 cases were committed to the Crown Court for sentence in 2011, an increase of five per cent on the previous year. While appeals against magistrates' decisions decreased by three per cent to 13,359
- Guilty pleas as a proportion of all defendants where a plea was entered remained at 70 per cent in 2011 same as in 2010.
- In 2011, the cracked trial rate decreased by three percentage points to 40 per cent and the ineffective trial rate remained unchanged at 14 per cent.
- In 2011, the average waiting time for defendants on bail in committed for trial cases was 15.3 weeks and 8.6 weeks for those held in custody.
- In sent for trial cases, the average waiting time in 2011 for defendants on bail was 23.5 weeks and 15.5 weeks for those held in custody..
- The average hearing time for defendants who pleaded not guilty decreased from 19.5 hours in 2010 to 18.9 hours in 2011 in sent for trial cases, and increased from 7.3 hours to 7.9 hours in committed for trial cases between 2010 and 2011.

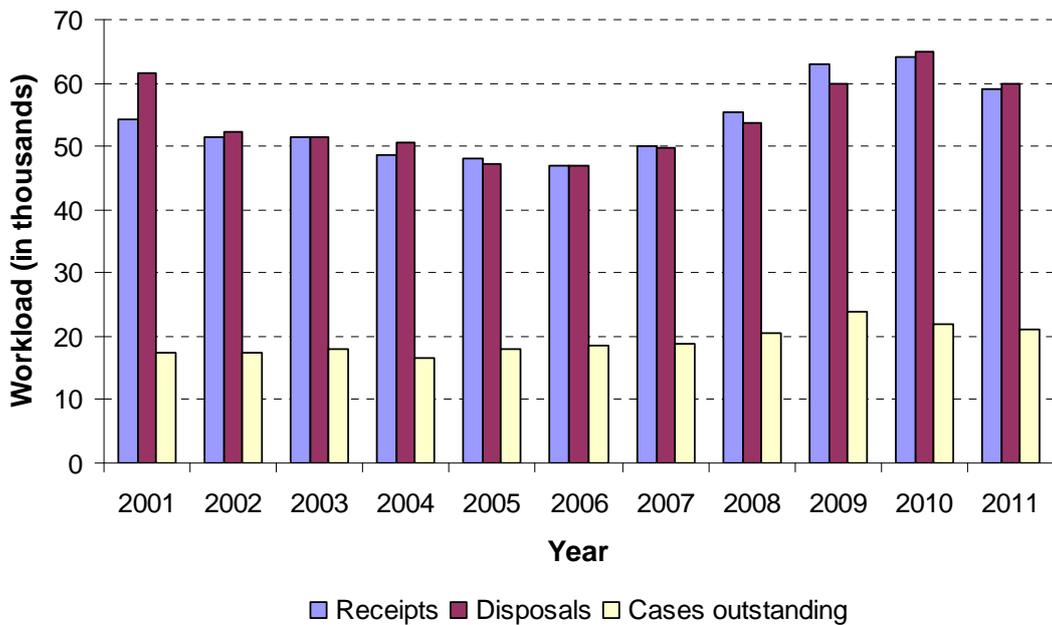
### **Receipts, Disposals and Outstanding Workload (Tables 4.1 – 4.2)**

A number of changes to court procedures over the last fifteen years have contributed to a shift in workload between magistrates' court and the Crown Court.

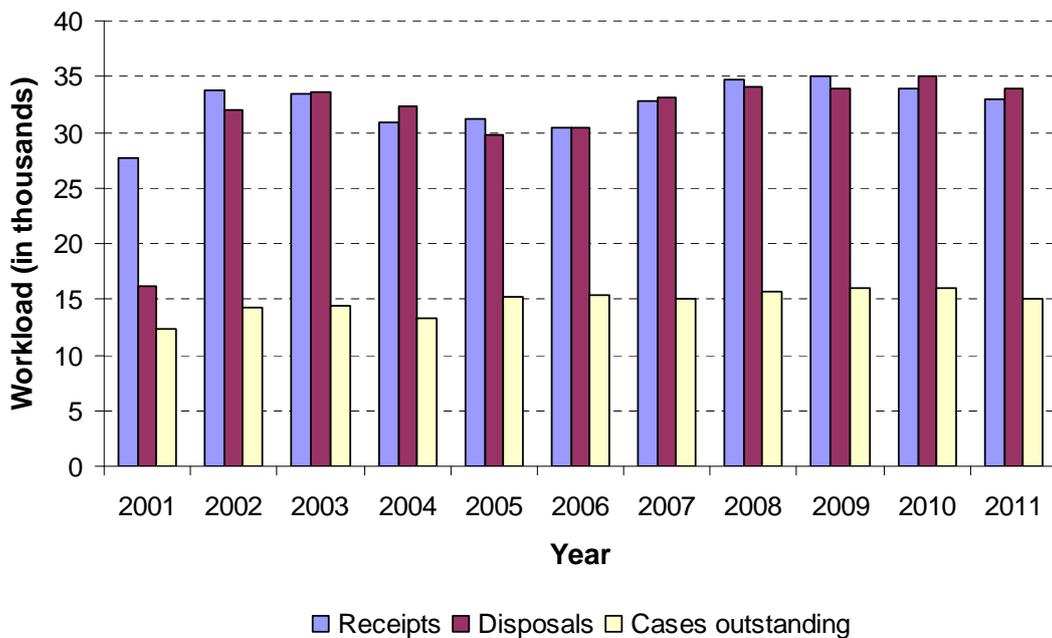
- The plea before venue procedure, which was introduced in 1997 for triable 'either way' offences, substantially reduced the number of trials received in the Crown Court. It also doubled the number of cases committed for sentence to the Crown Court. These do, however, require much less resource.

- The number of trials received in the Crown Court increased upon the introduction of sent for trial cases in 2001. These are 'indictable only' cases which are sent under section 51 of the Crime and Disorder Act 1998 to the Crown Court because the offence is so serious that only the Crown Court has jurisdiction to deal with it.

### Crown Court Committed for Trial Workload, 2001 to 2011



### Crown Court Sent for Trial Workload, 2001 to 2011



In 2011, 91,910 cases were received for trial in the Crown Court, a decrease of six per cent compared to 2010.

Some 93,960 trial cases were disposed of, a decrease of six per cent compared to 2010. Because more trial cases were disposed of than were received, the number of outstanding trial cases at the end of 2011 decreased by five per cent from 2010 to 36,077 cases.

In 2011, cases committed for sentence to the Crown Court increased by five per cent from the previous year to 42,981, while disposals increased by eight per cent to 42,829. At the end of 2011, 5,224 cases were outstanding, a decrease of one per cent compared to the end of 2011.

The number of appeals received decreased by three per cent from 13,820 in 2010 to 13,359 in 2011. Overall the number of appeals disposed of decreased by four per cent from 14,067 in 2010 to 13,479 in 2011, with a greater decline observed in appeals against verdict than appeals against sentences. Since more appeals were disposed of than received during 2010, the backlog of appeals outstanding at the end of the year decreased in 2011 to 2,951.

#### **Judge Caseload (Tables 4.3 – 4.4)**

High Court Judges deal with the more complex and difficult cases. In 2011 they sat in two per cent of all trial cases dealt with in the Crown Court. They try the most serious criminal cases in the Crown Court and in 2011 they sat in 27 per cent of all Class 1 cases compared to only two per cent in each of Class 2 and Class 3 cases.

Most Crown Court cases are heard by Circuit Judges and in 2011 they sat in 89 per cent of all trial cases dealt with in the Crown Court. Less complex or serious cases can be heard by Recorders and in 2011 they sat in nine per cent of all trial cases dealt with in the Crown Court. Patterns in the type of cases heard by different types of judges have remained unchanged since 2010.

#### **Defendants (Table 4.5)**

In 2011, the Crown Court disposed of 150,268 cases involving 170,346 defendants in total. This represents a two per cent decrease in the number of defendants compared to 2010 and is a direct result of a fall in the number of cases disposed.

The average number of defendants involved in Crown Court trial cases is at 1.21 in 2011. The average number of defendants involved in other types of cases has remained constant over the last few years. On average, there were 1.01 defendants per case committed for sentence and one defendant per appeal.

## Pleas and Convictions (Tables 4.6 - 4.10)

A guilty plea is recorded when a defendant:

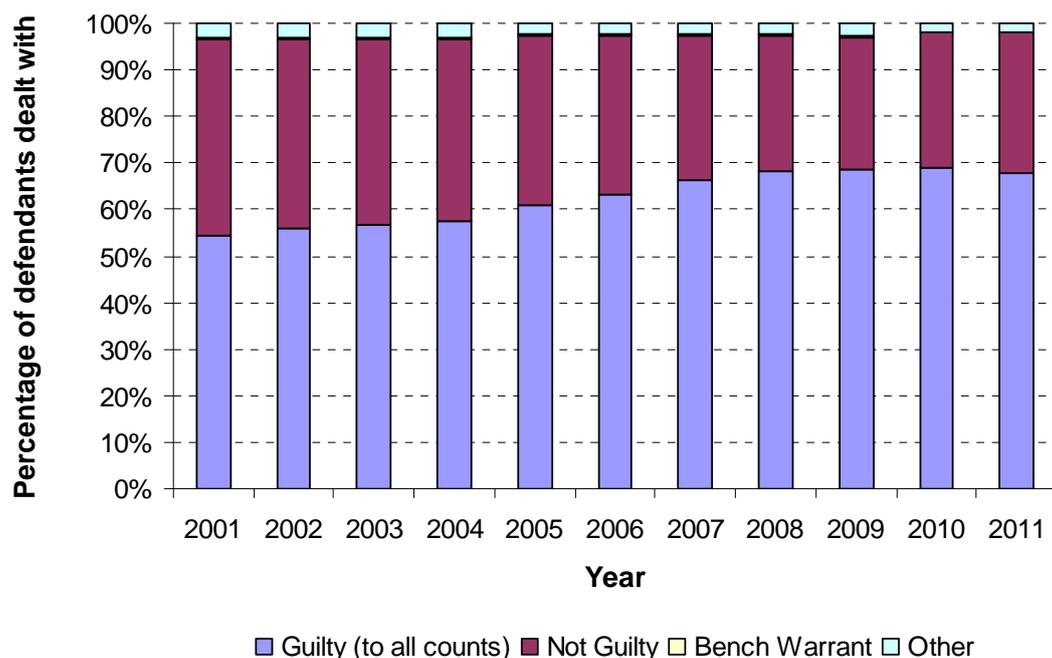
- Pleads guilty to all counts;
- Pleads guilty to some counts and not guilty to others and no jury is sworn in respect of the not guilty counts;
- Pleads not guilty to some or all counts but offers a guilty plea to alternatives which are accepted (providing no jury is sworn in respect of other counts).

A case is treated as a guilty plea only if pleas of guilty are recorded in respect of all defendants.

The proportion of all defendants (including those who did not enter a plea) who entered a not guilty plea in committed/sent for trial cases which were dealt with in 2011 increased slightly to 30 per cent. The guilty plea rate (the number of guilty pleas as a proportion of all defendants who pled) remained unchanged at 70 per cent. Since 2001 it has risen from 56 per cent to the current rate of 70 per cent.

Initiatives in the Crown Court and other agencies, such as offering an early plea discount and providing early charging advice from the Crown Prosecution Service at police stations, have helped to increase the guilty plea rate. Moreover, other initiatives have not only helped to reduce the number of extraneous hearings, but promote early guilty plea decisions.

### Defendants dealt with by plea, 2001 to 2011



## **Acquitted**

In 2011, 62 per cent of defendants who pleaded not guilty in cases dealt with during the year were acquitted. These defendants represent 19 per cent of all those who entered a plea. Of those who were acquitted after a not guilty plea, 61 per cent were discharged by the judge, typically because the prosecution ends the case, eight per cent were acquitted on the direction of the judge, 30 per cent were acquitted by the jury and one per cent were acquitted by other means.

## **Convicted**

Thirty eight per cent of defendants who pleaded not guilty in cases dealt with in 2011 were convicted. Of those who were convicted after a not guilty plea, 81 per cent were convicted by a jury who reached a unanimous verdict and the remaining 19 per cent by a jury who reached a majority verdict.

## **Appeals**

The proportion of appellants who had their appeals allowed or their sentence varied has increased from 41 per cent to 44 per cent between 2007 and 2011. This is driven by appeals allowed against verdicts, which has increased from 37 per cent in 2007 to 43 per cent in 2011.

Of remaining appellants dealt with in 2011, 31 per cent were dismissed and 25 per cent were abandoned or otherwise disposed.

## **Listing of Cases (Tables 4.11 – 4.13)**

The listing of cases is done, in most instances, months in advance. Good listing practice, inter-agency communication and efficient case progression inevitably lead to a higher number of effective trials. Where a case does not proceed on the day, the case will either 'crack' or be ineffective.

- Cracked Trial - on the trial date the defendant offers acceptable pleas or the prosecution offers no evidence. A cracked trial requires no further trial time, but, as a consequence, the time allocated has been wasted and witnesses have been unnecessarily inconvenienced thus reducing confidence in the system.
- Ineffective Trial - on the trial date the trial does not go ahead due to action or inaction by one or more of the prosecution, the defence or the Court and a further listing for trial is required.

## Cracked Trials

A defendant entering a late guilty plea has consistently been the main reason for a cracked trial and in 2011 this represented 63 per cent of all cracked trials. Other reasons for cracked trials included the prosecution accepting a plea of guilty to an alternative charge (17 per cent) and the prosecution ending the case (18 per cent).

Between 2001 and 2010, the cracked trial rate has risen from 34 per cent to 43 per cent. In 2011, the cracked trial rate decreased to 40 per cent due to the increase in effective trial listings.

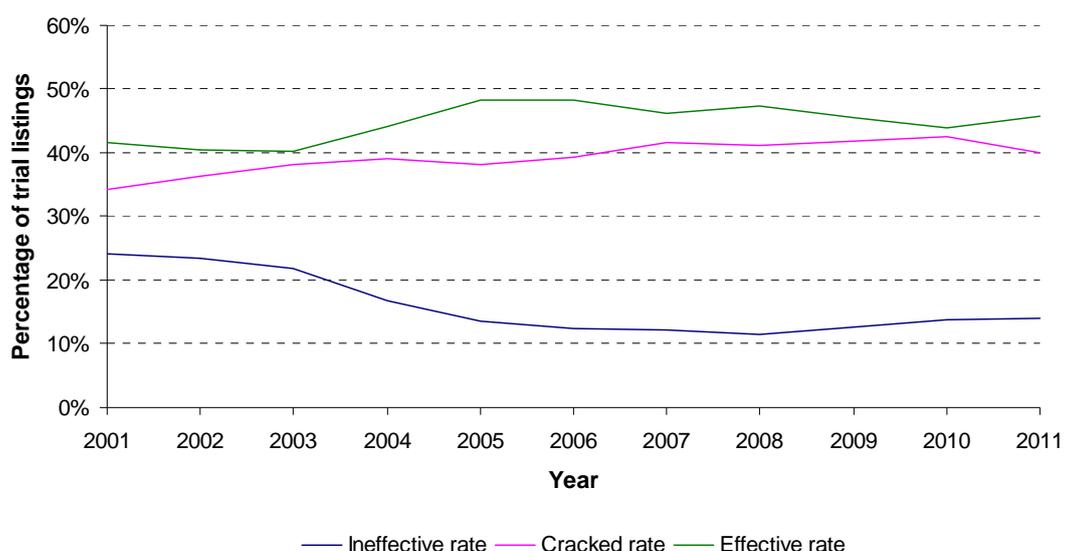
## Ineffective Trials

Up until 2010, the main reason for an ineffective trial was due to the absence of a defendant or the defendant being unfit to stand. However, although this continues to be an important cause of ineffective trials from 2010 onwards, the main reason for an ineffective trial was court administrative problems, which saw a four percentage point increase from 19 per cent in 2009 to 23 per cent in 2011. This increase was driven by over listing cases for trials.

In 2011, court administrative problems still accounted for 23 per cent of ineffective trials. Other reasons for ineffective trials included absence of defendants (20 per cent), the absence of the prosecution witness (21 per cent), the defence not being ready (18 per cent) and the prosecution not being ready (17 per cent).

The ineffective trial rate has remained unchanged since 2010 at 14 per cent in 2011.

## Effective, Ineffective and Cracked Trial Rates, 2001 to 2011



Over the last ten years various new initiatives have been introduced with the aim to reduce the number of ineffective trials.

- In 2003 the Ineffective Trial Monitoring Scheme was launched to formalise procedures on identifying the reasons for ineffective trials and enable focused action to be taken on improving performance.
- In 2004 the Effective Trial Management Programme (ETMP) was put in place to reduce the number of ineffective trials by improving case preparation and progression from the point of charge through to trial or earlier disposal. The ETMP introduced the role of the case progression officer – an individual nominated to the court and each party with the responsibility for progressing the case. Certificates of Readiness were also introduced under ETMP, which are in use in some courts. This requires that each party, acting under the judge's instruction, confirm in writing that they are ready to proceed with the trial as planned and that the trial will take no more than previously estimated.
- The Criminal Procedure Rules 2005 set out the procedures to be followed in case management by the courts, prosecution and defence teams.

All these initiatives have helped to bring about a fall in the ineffective trial rate - since 2000 it has fallen by 11 percentage points to the current rate of 14 per cent in 2011.

### **Waiting Times (Tables 4.14 – 4.17)**

In this publication, the waiting time for a defendant or appellant is defined as the length of time between a committal or the lodging of an appeal and the start of the substantive Crown Court hearing. (For reporting purposes a bench warrant execution is considered as a new trial receipt. Therefore, any subsequent waiting time is taken from the date of execution.)

Waiting times for defendants committed or sent for trial tend to vary according to the plea they enter and whether the defendant is on bail or in custody.

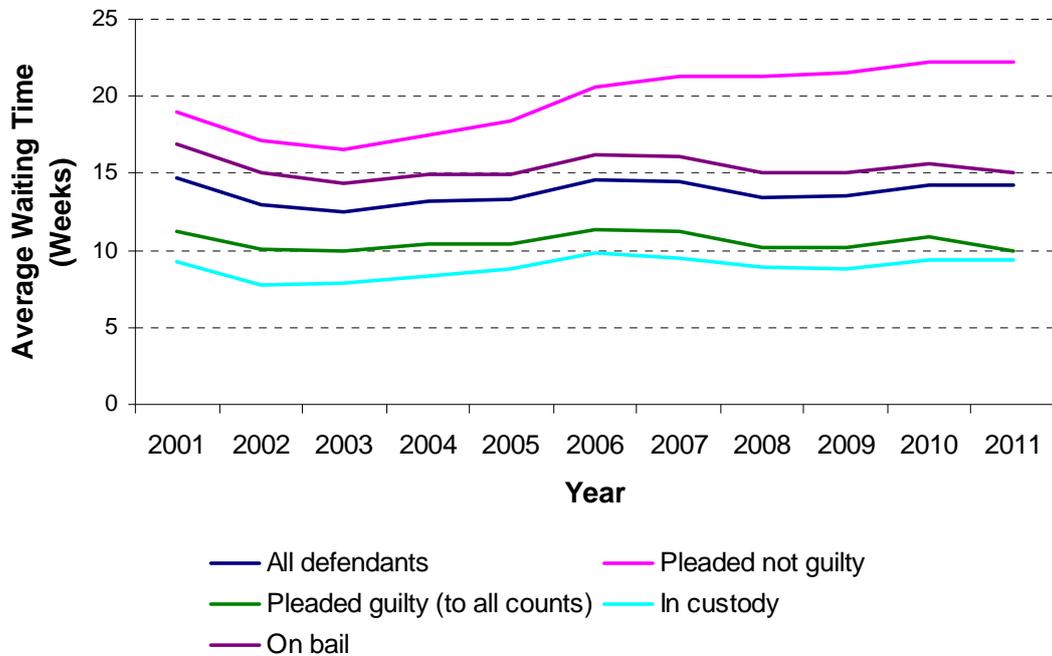
### **Committal for Trial**

In cases committed for trial defendants who pleaded guilty in 2011, on average, waited 10 weeks. The average waiting time for defendants who pleaded not guilty was around 22 weeks. The difference in the waiting time is not unusual as, where a defendant has pleaded not guilty, extra time is required by both parties to prepare for the case before the trial commences.

The average waiting time in 2011 for defendants remanded in custody remained unchanged at 9 weeks. For those remanded on bail, the average waiting time decreased to 15 weeks from 16 weeks in 2010. This pattern reflects defendants in

custody being listed as a higher priority by the court since the defendant is in custody whilst awaiting an outcome.

### Committed for Trial Average Waiting Times, 2001 to 2011



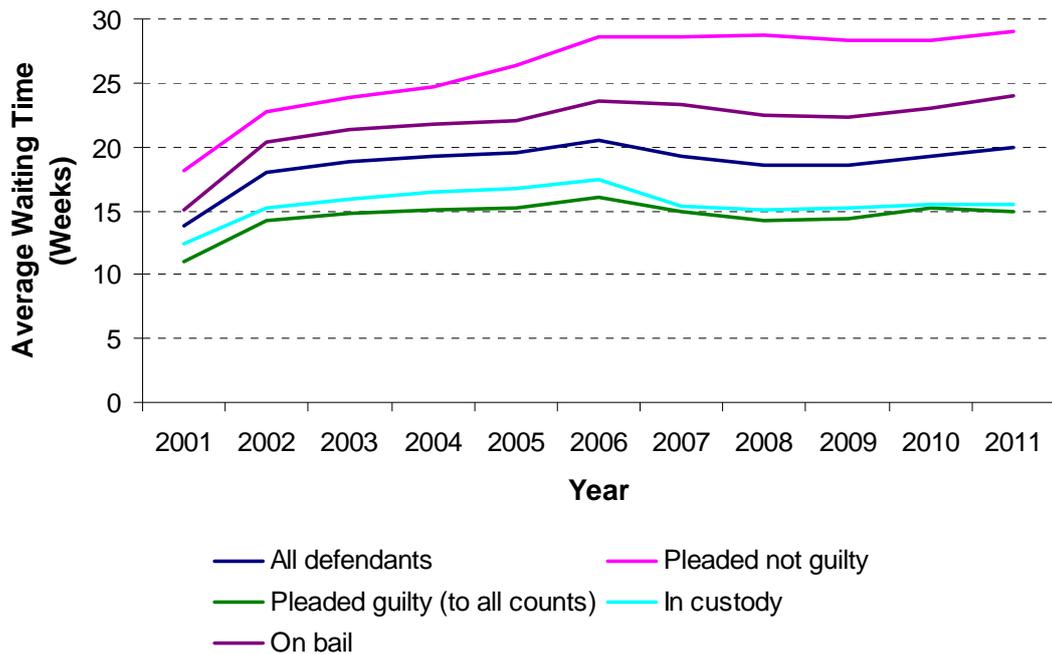
### Sent for Trial

In cases sent for trial defendants on average wait 20 weeks for a substantive hearing in 2011. On average those who pleaded not guilty waited 14 more weeks than those who pleaded guilty. For defendants who pleaded guilty in 2011, they waited, on average, 15 weeks compared with 29 weeks for those who pleaded not guilty. The reasons which explain the differences between the various waiting times for cases committed for trial apply here as well.

The average waiting times in 2011 for defendants remanded in custody was 16 weeks and for defendants remanded on bail was 23 weeks. In 2011, those who were remanded in custody waited, on average, eight weeks less than those remanded on bail.

Cases which are sent for trial involve serious offences that take longer to process and require more court time. Therefore, their average waiting times tend to be higher than average waiting times for cases committed for trial.

## Sent for Trial Average Waiting Times, 2001 to 2011



## Sentences and Appeals

In 2011 the average waiting time for defendants in cases committed for sentence remains unchanged at five weeks. Since 1999 this has seen an overall decrease of one week.

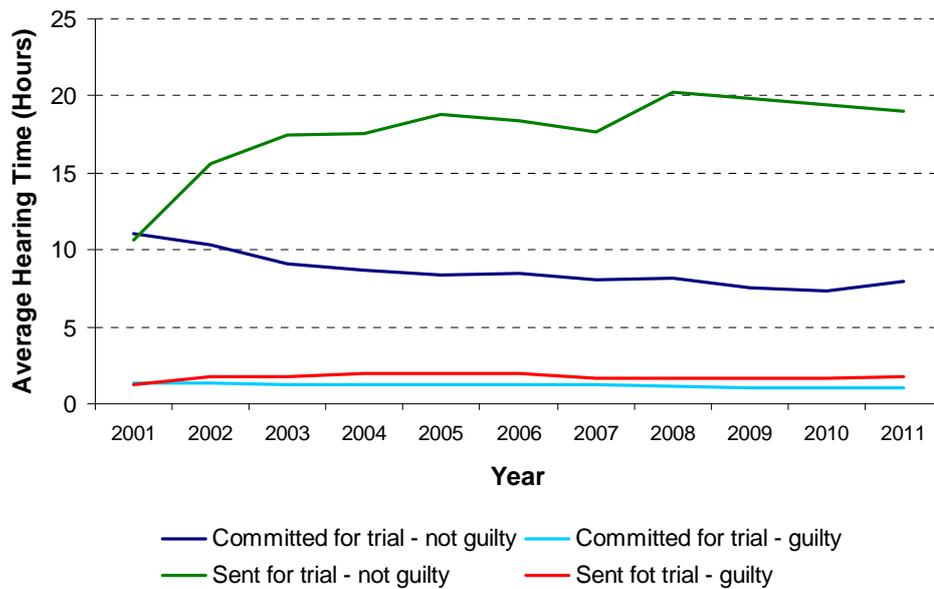
In 2011 the average waiting time for defendants appealing the decision of a magistrates' court remains unchanged at nine weeks. Since 2005 this has seen an overall increase of one week.

## Hearing Times (Table 4.18)

### Committal for Trial

The average hearing time in 2011 for a defendant who pleaded not guilty increased by 36 minutes to seven hours and 54 minutes. For those who pleaded guilty, the average hearing time in 2011 remained the same at one hour and six minutes.

## Average Hearing Times, by case type and plea type, 2001 to 2011



### Sent for Trial

Where a defendant pleaded not guilty, the average hearing time for cases sent for trial decreased by 36 minutes in 2011, to 18 hours and 54 minutes. However, where a defendant pleaded guilty, the average hearing time for cases sent for trial in 2011 increased by six minutes to one hour and 48 minutes.

### Sentences and Appeals

In 2011 the average hearing time was around 30 minutes for a case that was committed for sentence and one hour for an appeal.

### **Juror Statistics (Tables 4.19 – 4.21)**

In 2011, 343,949 juror summons were issued, which is an eight per cent decrease in compared to the number of issues in 2010. In the same year, around 23 per cent of all summons (79,339) were excused, compared with 26 per cent excused in 2010.

Of the summons excused, four per cent were excused as they had already served in the last two years and 96 per cent were excused for other reasons including childcare, work commitments, medical, language difficulties, student, moved from area, travel difficulties and financial hardship. In 2011, 16 per cent (56,246) summons resulted in failure to reply of people failed or were returned as undelivered.

In 2011, 170,421 jurors were supplied to the court. The juror utilisation rate has increased over the last six years to reach its current value of 70 per cent in 2011 from 59 per cent in 2007. This coincides with the introduction of a programme on the part of the Court Service to avoid placing more of a burden on jurors than necessary and make the best use of their time.

## Chapter 5: High Court - Chancery Division

In England and Wales civil justice is administered mainly by the High Court and county courts (Chapter 1), the former handling the more substantial and complex cases. The High Court is divided into three main Divisions: the Chancery Division, the Queen's Bench Division and the Family Division.

The core business of the Chancery Division is the resolution of disputes involving property in all its forms including commercial, business and intellectual property, competition disputes, taxation, and its traditional work relating to companies, partnerships, mortgages, insolvency, land and trusts.

The head of the Chancery Division is the Chancellor of the High Court, supported by 18 High Court judges. Chancery business is dealt with in the Royal Courts of Justice in London and in eight High Court District Registries across the country.

Statistics on the other cases dealt with at the High Court can be found in various locations throughout this report. Statistics regarding the work of the High Court's Queen's Bench Division can be found in Chapter 6. Information on cases concerning family matters dealt with by the High Court's Family Division is included within the Family Matters statistics section (Chapter 2). The three Divisions of the High Court also act as appellate courts for a range of civil and family matters, and statistics on these cases can be found in Chapter 7.

Information on the data sources used for the High Court statistics can be found in **Annex A**. Explanations for some of the main terms used in this section can be found in the **Glossary**. The tables of detailed data can be found immediately following this section of commentary.

### Key findings

There were 35,238 proceedings started in the Chancery Division in 2011, an increase of six per cent from 2010 after a sharp fall between 2009 and 2010.

- In the Chancery Division, applications filed at the Bankruptcy court increased by 10 per cent, from 11,063 in 2010 to 12,121 in 2011.
- There were 4,568 claims and other originating proceedings issued in London Chancery Division in 2011, trending slightly down from 2010 and 2009 after an approximately 30 per cent increase between 2008 and 2009.

### **Chancery (Tables 5.1 – 5.4)**

Most actions begin with the issue of a claim or originating proceedings by the claimant against the defendant. Some are dealt with without a trial. Before an action comes to trial there may be a number of interlocutory hearings which are heard by judges and masters (in London) and district judges (outside London). Trials come before High Court judges or deputy High Court judges.

In 2011, there were 4,568 claims issued and other originating proceedings in London. A number of new categories for the nature of proceedings were introduced by the Chancery Division in 2010. Some proceedings, which in previous years would have been classified in one of the 'Other ...' categories in [Table 5.3](#), have therefore been classified in one of the new categories. As a result of this not all categories are directly comparable with previous years.

### **Bankruptcy Court (Table 5.5)**

Bankruptcy is where an individual is unable to pay his or her debts. Proceedings are started with a petition for bankruptcy. Bankruptcy actions at the High Court are heard by registrars. Bankruptcy cases can also be heard in the county courts and heard by district judges (see Chapter 1 for statistics on county court civil cases).

There were 8,269 bankruptcy petitions issued in the High Court in London during 2011, continuing the downward trend since 2006. Other originating applications increased by 44 per cent, to 3,852 in 2011, somewhat reversing a sharp fall between 2009 and 2010.

### **Companies Court (Table 5.6)**

The Companies Court in London deals primarily with the compulsory liquidation of companies and other matters under the Insolvency Act 1986 and Companies Acts. Unlike an individual, a company cannot be made bankrupt, but may, because of insolvency or if there is some other reason it should cease to exist, be wound up instead. In addition to winding-up proceedings, the Court exercises other powers in relation to registered companies. For example, a company can only reduce its capital with the approval of the Court.

The Court also deals with claims to prevent individuals from being a director, liquidator, administrator, receiver or manager of a company or to take part in the running of a company under the Company Directors Disqualification Act 1986. Most proceedings in the Companies Court are dealt with by registrars but certain applications are heard by judges. Eight High Court District Registries also have concurrent jurisdiction with the Companies Court in London.

Under applications filed in the companies Court in London originating and non-originating petitions, applications and summonses decreased by six per cent and five per cent, respectively, since 2010.

## **Patents Court**

The Patents Court deals only with matters concerning patents, registered designs and appeals against the decision of the Comptroller General of Patents.

During 2011

- Fifty-three actions, which included trials and appeals (many of which were consolidated telecom cases e.g Nokia v Samsung), were listed. Of these 19 were withdrawn due to settlement or by order resulting from an interlocutory hearing. The hearings took 68 court days, not taking into account judgment writing time.
- 110 interlocutory hearings, which included case management conferences, applications for directions, summary judgment, applications to strike out etc, were listed and 20 withdrawn by consent. In the majority of cases of those withdrawn the terms of the order sought were agreed by the parties. The average time for this type of hearing was between one and two hours and the total time taken throughout the year was about 15 court days.
- Four appeals against the decision of the Comptroller General of Patents were listed. The total time taken in court was five court days.

## Chapter 6: High Court - Queen's Bench Division

The Queen's Bench Division of the High Court deals mainly with civil actions in contract and tort (civil wrongs) and also hears more specialist matters, such as applications for judicial review.

It contains within it the Commercial Court and the Admiralty Court, which deals with shipping matters such as damage to cargo. It also administers the Technology and Construction Court which hears cases involving prolonged examination of technical issues, such as construction disputes.

In London, the work of the Queen's Bench Division is administered in the Central Office at the Royal Courts of Justice. Work outside London is dealt with at the High Court's District Registries.

It is headed by the President of the Queen's Bench Division, supported by 72 High Court judges. Judges of the Queen's Bench Division also hear the most important criminal cases in the Crown Court and they also sit on the Employment Appeals Tribunal.

Statistics on the other cases dealt with at the High Court can be found in various locations throughout this report. Statistics regarding the work of the High Court's Chancery Division can be found in Chapter 5. Information on cases concerning family matters dealt with by the High Court's Family Division are included within the Family Matters statistics section (Chapter 2). The three Divisions of the High Court also act as appellate courts for a range of civil and family matters, and statistics on these cases can be found in Chapter 7, including statistics for the Administrative Court, which forms part of the Queen's Bench Division.

Information on the data sources used for the High Court statistics can be found in **Annex A**. Explanations for some of the main terms used in this section can be found in the **Glossary**. The tables of detailed data can be found immediately following this section of commentary.

### Key findings

- There were 13,928 proceedings started in the Queen's Bench Division in 2011, continuing the downward trend from 2009.
- Of the 4,726 claims issued in the Queen's Bench Division at the Royal Courts of Justice in London, a quarter were debt claims and just over one in five were breach of contract actions.

- There were 46,564 enforcement proceedings issued in the Queen's Bench Division in 2011, a small increase of three per cent on the previous year.
- In the Royal Courts of Justice in London, there were 214 claims issued in the Admiralty Court, 1,331 claims issued in the Commercial Court and 483 interlocutory appeals heard in the Technology and Construction Court.

### **Queen's Bench (Tables 6.1 - 6.6)**

There were 13,928 proceedings started in the Queen's Bench Division in 2011. Of these, around one third were issued at the Royal Courts of Justice in London and two thirds at the various High Court District Registries around the country. Proceedings started decreased by 16 per cent on 2010 continuing the downward trend from 2009.

The 4,726 proceedings issued at the Royal Courts of Justice included 1,178 related to debt (a quarter), 969 (21 per cent) related to breach of contract, 805 (17 per cent) were personal injury actions and 805 (17 per cent) concerned clinical negligence.

Actions are normally started by way of a claim or an originating summons. A claim is the most common method and is used, for example, when a claim is based on an allegation of fraud or a civil wrong; it informs defendants what is claimed against them. An originating summons is used in certain cases, such as applications under specific Acts; it outlines the nature of the case.

If a defendant fails to respond to a claim, a claimant may be entitled to a judgment by default; there were 1,280 such judgments by default in 2011.

If a defendant responds any of the following may result: (a) the claimant may discontinue the action, (b) the parties may reach agreement between themselves, (c) the court may decide that the defendant has no real defence to the action and gives summary judgment, or (d) a trial takes place, in some circumstances with a jury.

Judgments of the Queen's Bench Division may be enforced in many ways. By far the most common is the issuing of a writ of fieri facias (fi-fa). This directs the sheriff (the equivalent of the bailiff in the county courts) to seize, and if necessary, to sell the debtor's goods to raise money to pay off the debt. There were 46,327 writs of fi-fa issued in 2011, a rise compared to 44,897 in 2010.

### **Admiralty Court (Tables 6.7 – 6.9)**

The Admiralty Court is part of the Queen's Bench Division and deals with shipping matters. This deals with a range of naval matters such as ship collisions and damage to cargo. There is one Admiralty Judge who hears all admiralty cases and a number of interlocutory matters. The Admiralty Marshal is responsible for the detention and sale of ships which are the subject of proceedings in the Admiralty Court. Some 214 claims were issued in the Admiralty Court at the Royal Courts of Justice in London, an increase of 10 per cent on the previous year.

### **Commercial Court (Table 6.10)**

The Commercial Court also deals with some shipping matters, but is largely concerned with disputes around contracts, insurance, carriage of cargo and the construction of ships. Other matters dealt with at the Commercial Court include banking, international credit, contracts relating to aircraft, the purchase and sale of commodities and the practice of arbitration and questions arising from arbitrations. There are fifteen Commercial Judges who hear all commercial cases and interlocutory applications. Some 1,331 claims were issued in 2011, an increase of 26 per cent on the previous year. Around 54 per cent of these related to breach of contract, agreement or debt.

### **Technology and Construction Court (Table 6.11)**

Matters dealt with at the Technology and Construction Court include building and engineering disputes, computer litigation, professional negligence, sale of goods, valuation disputes, and questions arising from arbitrations and adjudications in building and engineering disputes. The court also deals with any cases from the Chancery Division or elsewhere within the Queen's Bench Division which involve issues or questions which are technically complex, or for which trial by judges at the court is for any reason desirable.

In 2011 there were five full-time senior circuit judges and two High Court judges based in London assigned to the Technology and Construction Court. Outside London, nominated circuit judges deal with the courts business, including full-time designated judges at Birmingham, Manchester and Liverpool District Registries. A total of 483 claims were received in the Technology and Construction Court, an increase of 15 per cent on the previous year but exactly the same as the year before that.

## Chapter 7 - Appellate Courts

There are various appeal courts in England and Wales which are administered by HM Courts and Tribunals Service:

- The **Judicial Committee of the Privy Council** - the final Court of Appeal for 23 Commonwealth territories and four independent Republics within the Commonwealth.
- The **Supreme Court** - the Supreme Court of Appeal in the United Kingdom, replacing the Appellate Committee of the House of Lords in October 2009.
- The **Court of Appeal** - divided into the Criminal Division, which hears appeals from the Crown Court and Courts Martial, and the Civil Division, which hears appeals mainly against decisions in the High Court and county courts.
- The **High Court** - has three Divisions, Chancery Division, Queen's Bench Division and Family Division, each of which handles different types of civil work. It exercises an appellate jurisdiction through its three Divisions in such matters as bankruptcy, judicial review, 'case stated' (ruling whether a court or tribunal was wrong in law or in excess of its jurisdiction) and appeals from magistrates' courts in domestic matters including orders involving children. Statistics on other cases dealt with at the High Court can be found in Chapter 2 (Family Division), Chapter 5 (Chancery Division) and Chapter 6 (Queen's Bench Division).

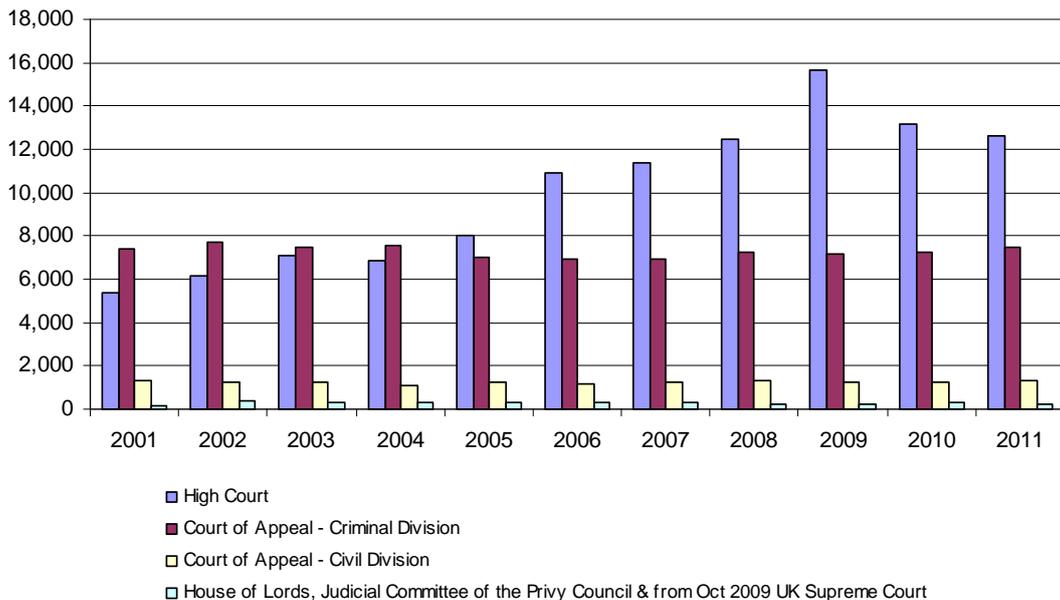
Information on the data sources used for the appellate courts' statistics can be found in **Annex A**. Explanations for some of the main terms used in this section can be found in the **Glossary**. The tables of detailed data can be found immediately following this section of commentary.

### Key findings

- Some 37 appeals were entered, and 45 disposed of by the Judicial Committee of the Privy Council during the year. The vast majority of these appeals were entered overseas.
- There were 208 appeals presented to the UK Supreme Court, while 202 were disposed of.
- A total of 7,475 applications for leave to appeal were received in 2011, an increase on recent years. Of these, 1,535 were against conviction in the Crown Court and 5,623 against the sentence imposed.

- Of the appeals heard by the Full Court in the Court of Appeal Criminal Division, 196 appeals against conviction were allowed and 1,386 appeals against sentence were allowed. This continued the fluctuating trend seen in recent years.
- In the Court of Appeal Civil Division, there were a total of 3,758 applications filed/set down and 3,709 disposed of. These represented increases of 12 per cent and 17 per cent respectively on 2010, and both measures are at their highest level since 2005.
- There were 11,200 applications for permission to apply for judicial review received in the Administrative Court of the High Court in 2011, the majority of which, as in previous years, concerned asylum and immigration matters. This was a six per cent increase on 2010, with the proportion refused increasing by eight percentage points.

### Appellate Courts: Appeals entered 2001-2011



## **The Judicial Committee of the Privy Council (Tables 7.1 – 7.2)**

The Judicial Committee of the Privy Council has both a Commonwealth and a domestic jurisdiction. In its Commonwealth jurisdiction, which is by far the largest part of its work, it hears appeals from those independent Commonwealth countries which have retained the appeal to Her Majesty in Council or, in the case of Republics, to the Judicial Committee itself. It also hears appeals from the United Kingdom overseas territories. By agreement with the Sultan of Brunei, the Committee can hear appeals from the Brunei Court of Appeal, but in civil matters only, and gives its advice to the Sultan.

The Judicial Committee's domestic jurisdiction has three main elements:

- i. appeals from the Channel Islands and Isle of Man, which are analogous to Commonwealth appeals and are dealt with under the same rules;
- ii. appeals under the Veterinary Surgeons Act 1966 from decisions of the Disciplinary Committee of the Royal College of Veterinary Surgeons;
- iii. appeals against pastoral schemes under the Pastoral Measure 1983.

Commonwealth appeals and references are normally heard by a board of five members of the Judicial Committee; other appeals are normally dealt with by a Board of three.

In 2011, 37 appeals were entered, including eight each from Jamaica and from Mauritius, seven from The Bahamas, and four from Trinidad and Tobago while 45 cases were dealt with (some of which may have originated from a previous year).

## **The Supreme Court (Tables 7.3 – 7.5)**

The UK Supreme Court (UKSC) is the final court of appeal in the United Kingdom. It was created in October 2009 and replaced the House of Lords as the United Kingdom's highest court. It hears appeals on arguable points of law of general public importance which ought to be considered by the Supreme Court at that time, bearing in mind that the causes will have already been the subject of judicial decision. The UKSC can hear appeals on both civil and criminal matters.

### Applications for permission to appeal

Applications for permission to appeal are referred to an Appeal Panel of three Justices. Permission to appeal is usually determined on the basis of written submissions by the parties, but the Panel may decide to hold a hearing so that counsel can make oral submissions, before the Appeal Panel makes a final decision on the application.

In the UKSC in 2011, 208 petitions for permission to appeal were presented, 202 were disposed of, of which 143 were refused outright.

### Appeals

Appeals are heard by a Court, usually consisting of five justices, and hearings typically last about two days.

In the UKSC in 2011, 77 appeals were presented and 81 appeals disposed of, all of which were determined. Of those disposed of, 14 related to practice and procedure, 11 to employment, and nine related to judicial review.

### **The Court of Appeal (Table 7.6 – 7.10)**

The Court of Appeal is divided into two Divisions, criminal and civil. Its courtrooms and offices are situated in the Royal Courts of Justice in London. The judges of the Court of Appeal are the Lord Chief Justice, the Master of the Rolls and 37 Lords Justices of Appeal.

The Criminal Division, presided over by the Lord Chief Justice and the Vice-President of the Criminal Division, hears appeals in criminal matters from the Crown Court. Courts are constituted from the Lord Chief Justice, Vice-President and Lords Justices, assisted by High Court judges as required.

The Civil Division, presided over by the Master of the Rolls, hears appeals mainly against decisions of the High Court and county courts, and also of tribunals and certain other courts, such as the Patents Court. In the Civil Division, courts of two or three judges are normally constituted from the Master of the Rolls and the Lords Justices.

### Criminal Division

During 2011, a total of 7,475 applications for leave to appeal were received, a small increase compared to previous years. Of these 1,535 were against conviction in the Crown Court and 5,623 against the sentence imposed, the highest figure since 2006. Of the 4,606 applications for leave to appeal which were considered by a single judge, 221 of those seeking to appeal against conviction were granted as were 1,063 against sentence. This continues the fluctuating trend seen in the last five years. Around 1,000 applications were renewed, a decline of nearly a quarter over the last five years.

Of the appeals heard by the Full Court during 2011, nearly 200 appeals against conviction were allowed and 1,386 appeals against sentence were allowed. This continued the fluctuating trend seen in recent years.

## Civil Division

In 2011, 1,269 appeals were filed in the Court of Appeal on civil matters, a similar number to the previous year: 282 from the Asylum and Immigration Tribunal, 238 appeals from the county courts on non-family matters, and 177 appeals from the Administrative Court of the High Court Queen's Bench Division.

In the Court of Appeal Civil Division a total of 3,758 applications were filed/set down and 3,709 disposed of in 2011. These were increases of 12 per cent and 17 per cent, respectively, on 2010, with both measures showing their highest level since 2005.

### **The High Court (Tables 7.11 – 7.14)**

The High Court exercises appellate jurisdiction in the following respects.

- (a) The Chancery Division hears appeals in revenue matters from the Commissioners of Taxes. All bankruptcy appeals from the county courts and from the High Court Registrars under the Insolvency Act 1986 are heard by a single judge of the Chancery Division.
- (b) The Divisional Court of the Queen's Bench Division and the Administrative Court has jurisdiction in respect of several matters, including Judicial Review, appeals by way of case stated (when a person is dissatisfied on a point of law with a decision of the Crown Court, a magistrates' court or a tribunal), and various statutory provisions including those on planning matters under the Town and Country Planning Acts. In 2005 the court was also given power to order the Asylum and Immigration Tribunal to reconsider an appeal against a decision refusing asylum or other decision of the UK Border Agency.
- (c) The Divisional Court of the Family Division hears appeals from magistrates' courts in a wide variety of domestic matters including orders involving children. The appeals are entered at the Principal Registry in London.

In the Administrative Court, which is part of the Queen's Bench Division, supervisory jurisdiction, by way of judicial review, is exercised over the Crown Court (for matters not relating to trial on indictment), inferior courts and tribunals, and the actions and decisions of public bodies, Government ministers or other persons charged with the performance of public acts and duties. Judicial review is concerned with the legality and propriety of the decision-making process, as distinct from the merits of the decision in question. It is only appropriate when all other avenues of appeal have been exhausted. The Court can make what are known as 'prerogative orders', which may, for example, command a person or body to perform a duty, prohibit an inferior court or tribunal from exceeding its jurisdiction, or quash the decision under challenge.

### Chancery Division

In 2011, a total of 91 appeals were set down for hearing in the Chancery Division, of which 41 related to bankruptcy matters. 52 appeals were disposed of, which included 28 dismissed and five withdrawn or struck out.

### Administrative Court

There were 18,811 applications for permission to apply for judicial review in the Administrative Court, a 12 per cent increase on 2010. Of these, 11,200 were received, 6,391 applications were refused and 1,220 were granted. The majority of these applications, as in previous years, concerned asylum and immigration matters. There were 396 applications for judicial review which were dealt with in 2011, a 14 per cent decrease on 2010. Of these, 174 were allowed, 213 dismissed and nine were withdrawn.

A total of 79 appeals by way of case stated were received in 2011, slightly less than the level in the previous year when there were 96. The majority of these, 73 per cent, were appeals from magistrates' courts, as in previous years. There were 51 such appeals dealt with during the year, of which 22 were allowed and 29 dismissed.

There were 571 appeals/applications disposed of in the Administrative Court during 2011, a decrease of over 80 per cent on 2010. The transfer of reconsideration applications to the Upper Tribunal on 15 February 2010 resulted in a steep reduction in appeals and applications received by the Administrative Court.

In 2011, just over 11,771 cases were received in the administrative court, a significant reduction on the previous year.

### Family Division

There were 121 cases in the Family Division of the High Court, the highest figure since 2006.

## Chapter 8: The Mental Capacity Act

The Mental Capacity Act 2005 provides a statutory framework to empower and protect vulnerable people who are not able to make their own decisions. It makes it clear who can take decisions, in which situations, and how they should go about this. It enables people to plan ahead for a time when they may lose capacity.

The Act created two public bodies to support the statutory framework, both of which are designed around the needs of those who lack capacity:

1. The **Court of Protection**.
2. The Public Guardian, supported by the **Office of the Public Guardian (OPG)**.

When the Mental Capacity Act 2005 came into force on 1 October 2007, the role and function of the Court of Protection changed, and in addition, the OPG was established. As there was a change in the type of data collected from October 2007, the data reported on previously for the old Court of Protection and Public Guardianship Office is no longer relevant, and therefore figures presented in this report are not fully comparable with figures published in earlier reports.

The tables of detailed data can be found immediately following this section of commentary.

### **Key findings**

- There were 23,538 applications made to the Court of Protection under the Mental Capacity Act 2005 in 2011.
- The court made 22,797 orders in 2011, 4,999 more than last year. Around two thirds of those orders related to the appointment of a deputy for property and affairs.

## **The Court of Protection**

The Court of Protection is a specialist court created under the Mental Capacity Act 2005. It makes specific decisions, and also appoints other people (called deputies) to make decisions for people who lack the capacity to do this for themselves. These decisions are related to their property, financial affairs, health and personal welfare.

The new Court of Protection replaced the office of the Supreme Court with the same name which only dealt with property and financial affairs. Under the Mental Capacity Act, the court also deals with serious decisions relating to health and personal welfare. Previously, such matters were the preserve of the High Court, who could make declarations under its inherent jurisdiction as to whether an act was lawful in the best interests of an adult who lacked capacity. The new Court of Protection is a superior court of record with the same rights, privileges and authority as the High Court.

The Court of Protection now has powers to:

- decide whether a person has the capacity to make a particular decision for themselves;
- make declarations, decisions or orders on financial or welfare matters affecting people who lack capacity to make these decisions;
- appoint a deputy to make ongoing decisions for people lacking capacity to make those decisions;
- decide whether a Lasting Power of Attorney (LPA) or Enduring Power of Attorney (EPA) is valid;
- remove deputies or attorneys who fail to carry out their duties; and
- hear cases concerning objections to the registration of an LPA or EPA.

The majority of applications to the court are decided on the basis of paper evidence without holding a hearing. In around 95 per cent of cases, the applicant does not need to attend court.

Some applications such as those relating to personal welfare, objections in relation to deputies and attorneys, or large gifts or settlements for Inheritance Tax purposes may be contentious and it will be necessary for the court to hold a hearing to decide the case.

Throughout 2011, the Court of Protection operated from its central registry in Archway, North London, but in January 2012, it moved to new premises at the Royal Courts of Justice.

The Court of Protection continued to hear cases in a variety of regional courts including Newcastle, Leeds, Manchester, Birmingham, Bristol and Cardiff. During 2011 there have been up to five full time judges in Archway and a further 33 district judges and 40 circuit judges nominated to hear cases in the regions. Although only a small number of cases (about 5 per cent) result in a hearing, the facility to hold hearings at a location convenient to the parties is one of the successes of the Mental Capacity Act. In 2011, around 47 per cent of listed hearings were heard at the Archway, and the rest were heard in the regions, including those heard at the Royal Courts of Justice<sup>3</sup>.

### **Court of Protection Hearings, 2011 (Tables 8.1 – 8.2)**

In 2011, 16 regional district judges spent a week or more working alongside the full time judges in Archway. This enabled the district judges to broaden their experience of Mental Capacity Act work, and also provided much-needed backfill for absences of the full time judges.

On 12 December 2011, the Court of Protection (Amendment) Rules 2011 came into force. The new rules and practice direction permitted authorised court officers (experienced civil servants nominated by the senior judge) to deal with specified types of property and affairs applications, allowing district judges to spend more time on the difficult, contentious cases.

Overall, the court saw a 13 per cent increase in applications and made almost 5,000 more orders in 2011 than 2010. This only reflects a slight increase in work, however, as in 2011 the court made some changes to its IT systems that enabled it to capture more information on interim applications and applications in proceedings and enabled it to record multiple orders against each application. Previously, the IT system only permitted the court to record one order per application, so it only recorded final orders. These changes account for the increases in the 'Other' categories.

Around 90 per cent of all applications relate to the court's property and affairs jurisdiction, predominantly applications to appoint a deputy or to vary the powers of an existing deputy. A deputy order authorises the deputy to take possession or control of the person's property and affairs and to exercise the same powers of management as if they were beneficial owner, although the court will limit the powers of the deputy if it considers it appropriate to do so. The court continued to receive similar volumes (around 3,000) of applications by existing deputies seeking to vary or extend their powers.

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<sup>3</sup> Where the case is allocated to a High Court Judge of the Family or Chancery Division.

Most applications relating to the court's personal welfare jurisdiction were for an order appointing a deputy for personal welfare including hybrid applications where the applicant was seeking an order relating to both personal welfare and property and affairs. Section 50 of the Act imposes a general requirement for the applicant to seek the permission of the court before making an application which, taken together with the requirements in the court rules, means that permission is almost always required for personal welfare applications. Although the numbers of personal welfare orders did increase slightly from last year, the court continues to refuse permission in up to 70 per cent of applications for a deputy for personal welfare. The reason for this low success rate is that the Code of Practice<sup>4</sup> provides that "deputies for personal welfare decisions will only be required in the most difficult cases where:

- important and necessary actions cannot be carried out without the court's authority; or
- there is no other way of settling the matter in the best interests of the person who lacks capacity to make personal welfare decisions."

The majority of applications relating to lasting powers of attorney were made by the Public Guardian who is prevented from registering the instrument if the LPA contains ineffective provisions and he must apply to court for a ruling as to whether the instrument is valid. Last year we commented that the new prescribed forms of lasting power of attorney, introduced by the Public Guardian in 2009, had slightly reduced the error rate on the forms and therefore applications by the Public Guardian. In 2011 applications more than doubled from 254 to 591. This increase is more a reflection on the consistently high numbers of applications to register received by the Public Guardian, rather than any underlying problem with the lasting power of attorney forms.

The number of applications in relation to enduring powers of attorney has continued to reduce from previous years (511 as opposed to 635 in 2011 and 911 in 2010). The Mental Capacity Act replaced enduring powers of attorney with lasting powers of attorney but any enduring powers made before 1 October 2007 can still be registered with the Office of the Public Guardian. This reduction over time is to be expected, as there are fewer unregistered enduring powers of attorney in existence.

This year the court has reported on applications relating to deprivation of liberty for the first time. The Deprivation of Liberty Safeguards came into effect in April 2009 and is a framework for authorising the deprivation of liberty of people who lack capacity to consent to care or treatment, in a care home or hospital setting, where that care or treatment can only be provided in circumstances that amount to a deprivation of liberty. Section 21A of the Mental Capacity Act provides a mechanism

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<sup>4</sup> Mental Capacity Act 2005 Code of Practice (TSO 2007)

for the person deprived of their liberty or their representative to apply to the Court of Protection for a review of the deprivation of liberty authorisation. The figures provided here include not only those applications made under section 21A, but also those relating exclusively or predominantly a deprivation of liberty in the person's best interests, where the person was not resident in a hospital or care home, and therefore not covered by the deprivation of liberty safeguards. The figures should be seen as indicative of this work only, because authorising a deprivation of liberty may be only one of several issues that the court is being asked to decide, therefore some cases may have been recorded under the category of personal welfare. Many deprivation of liberty applications are referred to Family Division judges of the High Court or circuit judges in the regions, which presents some difficulty in recording final orders. The figure of 24 orders in [Table 8.2](#) is not an accurate reflection of orders made.

### **Office of the Public Guardian**

The Office of the Public Guardian (OPG), an agency of the Ministry of Justice, was established in October 2007, and supports the Public Guardian in registering Enduring Powers of Attorney (EPA), Lasting Powers of Attorney (LPA) and supervising Court of Protection (COP) appointed Deputies.

The OPG supports and promotes decision making for those who lack capacity or would like to plan for their future, within the framework of the Mental Capacity Act 2005. The role of the Public Guardian is to protect people who lack capacity from abuse.

The Public Guardian, supported by the OPG, helps protect people who lack capacity by:

- setting up and managing a register of LPA;
- setting up and managing a register of EPA;
- setting up and managing a register of Court appointed Deputies, supervising Court appointed Deputies, working with other relevant organisations (for example, social services, if the person who lacks capacity is receiving social care);
- receiving reports from Attorneys acting under LPAs and from Deputies; and
- dealing with cases, by way of investigations, where concerns are raised about the way in which Attorneys or Deputies are carrying out their duties.

## Powers of Attorney

### Enduring Power of Attorney

A Power of Attorney created under the Enduring Powers of Attorney Act 1985 appoints an Attorney to deal with the Donor's property and financial affairs. Existing EPAs will continue to operate under Schedule 4 of the Mental Capacity Act, which replaces the EPA Act 1985.

### Lasting Power of Attorney

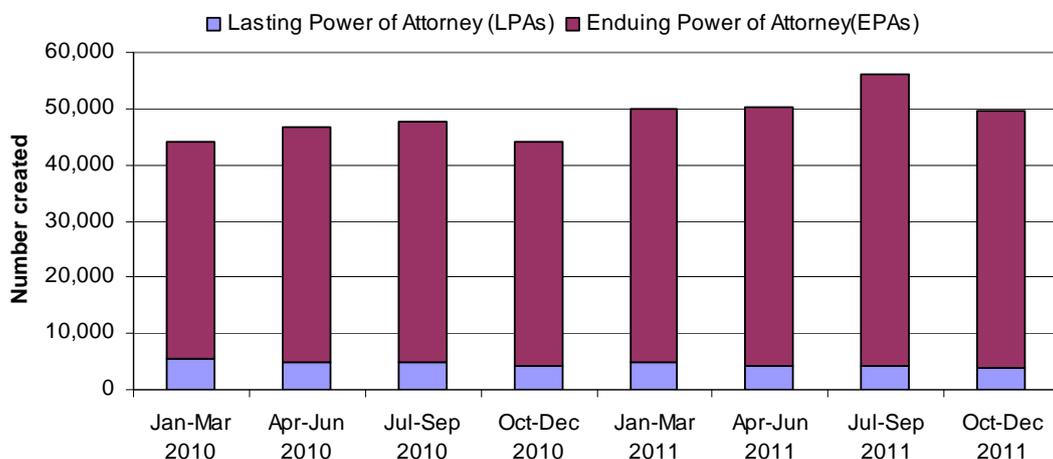
A Power of Attorney created under the Mental Capacity Act appoints an "Attorney" to make decisions about the Donor's personal welfare (including healthcare) or deal with the Donor's property and affairs.

An LPA is a legal document that someone (the Donor) makes using a special form. It allows that person to choose someone in the present time, called the "Attorney", that they trust to make decisions on their behalf, at a time in the future when they either lack the mental capacity or no longer wish to make those decisions themselves. The decisions could be about the Donor's property and affairs or about their personal welfare.

Making an LPA is the only way to make plans for a time in the future when a person may lack the capacity to make decisions for themselves. An LPA can only be used after it is registered with the OPG. There are two types of LPA: The Property and Affairs LPA; and The Personal Welfare LPA.

There were 189,335 LPAs in 2011, a rise of 16 per cent on 2010. There were also 16,916 EPAs, a decrease of 14 per cent on 2010 (see chart below). The number of LPAs continues to increase in the years following their introduction in October 2007.

### Quarterly comparison of EPAs and LPAs, 2010-2011



### Deputyships (Table 8.3)

A Deputy is appointed by the Court of Protection. A Deputy is legally responsible for acting and making decisions on behalf of a person who lacks capacity to make those decisions themselves.

The Public Guardian is also personally responsible for the management and organisation of the OPG, including the use of public money and the way it manages its assets. A separate Public Guardian Board scrutinises the work of the Public Guardian and then reports to the Lord Chancellor.

There were 13,033 Deputyships appointments in 2011, an increase of nine per cent on the previous year.

## Chapter 9: Offices of the Supreme Court

This chapter deals with the Officers of the Senior Court which include:

- The Official Solicitor to the Senior Courts. The Offices of the Official Solicitor and the Public Trustee remain an arms length body, the purpose of which is to serve the two statutory office holders, the Official Solicitor to the Senior Courts and the Public Trustee who each have separate statutory and other functions. The Public trustee is not an officer of the Senior Courts.
- The Tipstaff whose main responsibility is the enforcement of warrants and orders issued by Judges throughout all divisions of the High Court. Much of the Tipstaff's work relates to children who either have been, or are at risk of being, abducted.

Information on the data sources used for the Offices of the Supreme Court statistics can be found in **Annex A**. The tables of detailed data can be found immediately following this section of commentary.

### **Key findings**

- The number of new litigation cases has remained approximately similar since 2006 at between 2,600 and 2,800. The number of new administrative, estates and trusts cases has fluctuated more widely over the same time-period and there were 3,371 in 2011.
- The number of actively managed cases involving litigation has continued its downward trend, falling from 3,548 in 2006 to 2,759 in 2011. The number of actively managed cases involving administration, trusts and estates cases has continued its upward trend, rising from 3,293 in 2006 to 8,853 in 2011.
- Tipstaff casework included 886 child abduction warrants of arrest issued, 406 executed and 417 dismissed or suspended.

### **The Court Funds Office**

The Court Funds Office supports the Accountant General and provides a banking service for the civil courts throughout England and Wales. It accounts for money being paid into and out of court, and where necessary administers any investments made with that money.

It administers approximately £4.7 billion of client assets. These assets can be broken down into a mixture of cash held on Special or Basic Interest bearing accounts or investments in the Equity Index Tracker Fund, an investment vehicle managed by Legal and General.

## **The Offices of the Official Solicitor and the Public Trustee (Table 9.1)**

The Offices of the Official Solicitor and the Public Trustee support both the Official Solicitor and the Public Trustee.

The Official Solicitor is a statutory office holder appointed by the Lord Chancellor section 90 of the Senior Courts Act 1981.

The **Public Trustee** (appointed under section 8 of the Public Trustee Act 1906) acts as executor or administrator of estates and as the appointed trustee of settlements. The Public Trustee's aim is to provide an effective executor and trustee service of last resort on a non-profit-making basis; in so doing, his objective is to secure the best value for the beneficiaries.

## **Tipstaff (Table 9.2)**

The duties of the Tipstaff are many and varied but, in broad practical terms, the Tipstaff is the enforcement officer for the High Court. The principal areas of specific duties emanate from the Queen's Bench, Chancery and Family Divisions and involve issues of bankruptcy, insolvency, wardship, child abduction, contempt of court and many other miscellaneous orders which involve taking action to enforce, or prevent breach of, orders of the court. There is one Tipstaff and two Assistant Tipstaff to cover England and Wales, and they are based at the Royal Courts of Justice in London.

The single biggest area of work for the Tipstaff relates to Family Division cases involving missing or abducted children. The Tipstaff is responsible for executing warrants on a range of possible Orders in these circumstances, including a Collection Order (for the return of a child), a Location Order (for the whereabouts of a child to be discovered), a Passport Order (for the seizure of passports or other travel documents) and Port Alerts (to prevent a child being wrongfully removed from the UK). Orders of these types accounted for 88 per cent of all warrants executed by the Tipstaff in 2011.

In total, there were 464 warrants executed in 2011 and 451 warrants dismissed or suspended.

Tipstaff casework included 886 child abduction warrants of arrest issued, 406 executed and 417 dismissed or suspended. There were 85 warrants of arrest issued within the five Divisions, some 27 per cent from the Insolvency Division and 26 per cent from the Family Division.

# Chapter 10: The Judiciary

This chapter deals with the number of days sat in court by judges, broken down by region and type of judge as well as the levels, by gender, of the Magistracy.

Information on the data sources used for the Judiciary statistics can be found in **Annex A**. Explanations for some of the main terms used in this section can be found in the **Glossary**. The tables of detailed data can be found immediately following this section of commentary.

## **The Judiciary**

The Judiciary of England and Wales can be separated into the following types of judge:

- Heads of Division
- Lords Justices of Appeal
- High Court Judges
- Masters and Registrars of the Supreme Court
- Circuit Judges
- Recorders
- District and Deputy District Judges
- Tribunal Judges
- District and Deputy District Judges (Magistrates' Courts)
- Justices of the Peace (or Magistrates).

## **Divisional Heads**

The Lord Chief Justice is the Head of the Judiciary for England and Wales and also Head of Criminal Justice.

## **Lords Justices**

Together with the Lord Chief Justice and the Heads of Divisions, the Lords Justices are judges of the Court of Appeal.

## **High Court judges**

There is a statutory limit of 108 High Court Judges who may sit in England and Wales to deal with the more complex and difficult cases.

High Court judges are assigned to one of the three divisions of the High Court: the Chancery Division; the Queen's Bench Division; and the Family Division.

### **Circuit Judges, Recorders and District Judges**

The majority of Crown Court work is undertaken by Circuit Judges and Recorders. In the county courts most of the work is undertaken by Circuit Judges, District Judges and deputy District Judges.

Due to moving the publication of this report forwards, the information contained within Table 10.1 of previous editions relating to the number of Circuit Judges, Recorders and District judges in post in each circuit was not available. This information is published on the Judiciary website [www.judiciary.gov.uk](http://www.judiciary.gov.uk).

### **District Judges (Magistrates' Courts)**

Full-time District Judges (Magistrates' Courts) are salaried members of the judiciary appointed by the Queen on the recommendation of the Lord Chancellor. Generally sitting alone in a magistrates' court, they are responsible for deciding matters of law and fact and for imposing sentences.

### **The Magistracy (Justices of the Peace)**

Justices of the Peace (JP) (magistrates) are appointed by the Lord Chancellor on behalf of the Sovereign.

### **Key findings**

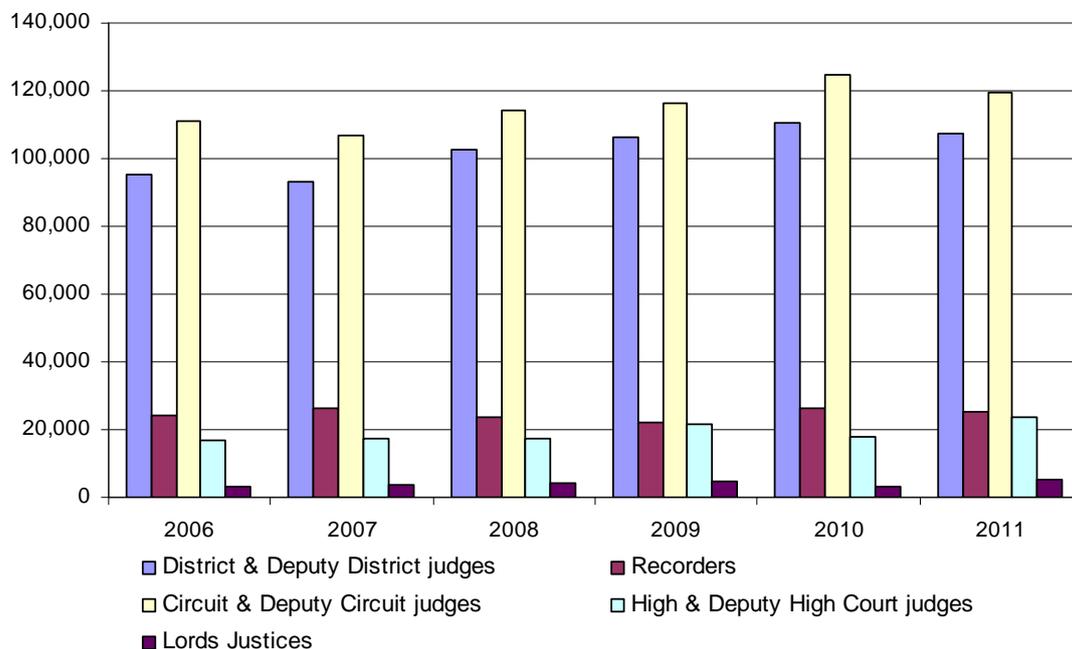
- During 2011, around 281,294 days were sat by judges (excluding magistrates) on all types of work (excluding tribunals and other official functions).
- Days sat in the Crown Court accounted for 38 per cent, while for the county courts and the High court the proportion was 52 per cent and eight per cent respectively.
- London, the Royal Courts of Justice and the South East accounted for 46 per cent of the days sat in 2011.
- Justices of the peace (JPs) in the magistracy have varied in number slightly over the years, declining to a level of 24,267 as at 1 April 2012, a fall of ten per cent on the previous year. The proportion of male and female JPs was equal up to 2008; between 2009 and 2012 there were slightly more female JPs than male JPs.
- There was a further sharp decline in the number of people appointed as JP in 2011/12 continuing the downward trend. In every year since 2007/08, more women have been appointed than men.

### Judicial sitting days (Tables 10.1 – 10.3)

Around 281,294 days were sat by judges (excluding magistrates) on all types of work (excluding tribunals and other official functions) during 2011. Over half the days sat were accounted for in the county courts whilst the Crown Court sat accounted for 38 per cent, while for the county courts and the High court the proportion was 52 per cent and eight per cent respectively. London, the Royal Courts of Justice and the South East accounted for 46 per cent of the days sat in 2011.

### Judges Sitting Days, 2006-2011

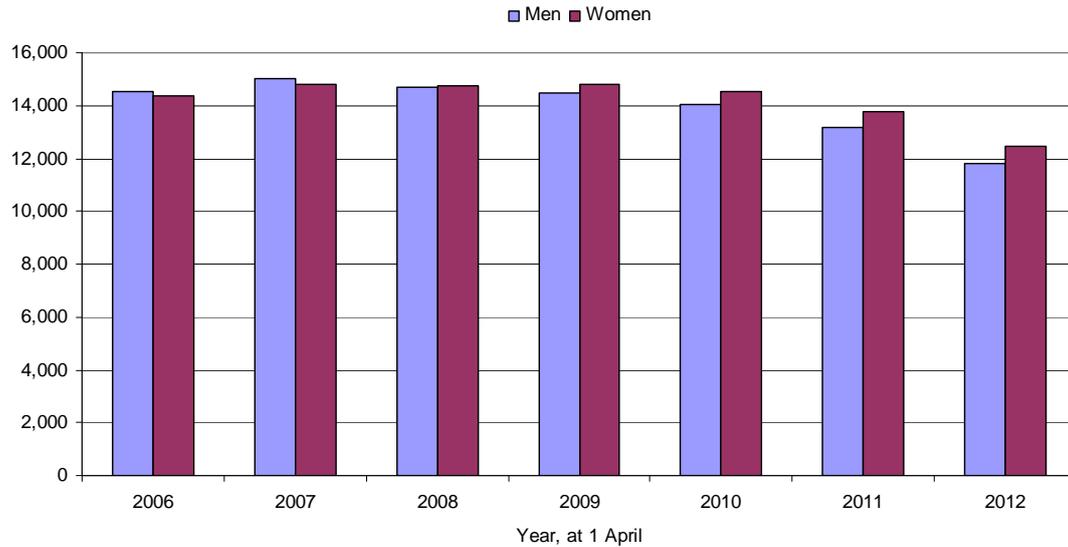
Days sat (Court & Chambers)



### Magistrates (Justices of the Peace) (Tables 10.4 – 10.5)

Between 1 April 2011 and 1 April 2012 there was a fall of ten per cent in the number of JPs to 24,267. This was partly due to courts' closures, bench mergers and a reduced workload going through the magistrates' courts. The proportion of male and female JPs was equal up to 2007 then between 2008 and 2012 there were slightly more female JPs than male.

## Justices of the Peace, by sex, 1 April 2006-2012



The number of people appointed as JP in 2011/12 was less than half that compared to the previous year, which continued a sharp downward trend since 2006/07. In April 2012, a restructure was completed of the committees that advise on the recruitment and selection of magistrates for recommendation to the Lord Chancellor in concurrence with the Senior Presiding Judge. During the restructure many of the committees put recruitment on hold. This was further impacted by the Government's decision to close a number of magistrate's courts and merge Local Justice Areas. There has also been some decline in the work for magistrates due to certain powers being given to local police forces resulting in fewer cases going forward to the magistrates' court

# Chapter 11: Assessment of litigation costs, and publicly funded legal services

This chapter deals with the funding of litigation work, whether through an award of costs to a successful litigant on the completion of court proceedings, or through public Legal Aid schemes. Information on the data sources used for the Offices of the Supreme Court (SCCO) statistics can be found in **Annex A**. The tables of detailed data can be found immediately following this section of commentary.

## Key findings

- There were 11,561 cost bills assessed in the Senior Courts Costs Office in 2011, remaining level since 2009 after a decline in previous years. Of these, 'between parties' assessments rose by 14 per cent compared to 2010.
- 89 per cent of defendants involved in trial cases committed to the Crown Court in 2011 received publicly-funded legal representation (where representation was known). This represents a decrease of six percentage points on the previous year.

## Detailed Assessment of Costs in Civil Proceedings (Tables 11.1 – 11.2)

The detailed assessment of costs is the process of examining and if, necessary, reducing the bill of costs of a solicitor or Litigant in Person. Costs include not only the solicitor's own professional fees, but also disbursements incurred including barristers' and experts' fees.

In 2011, the SCCO assessed 11,561 bills as against to 11,579 in 2010. This includes a slight increase in between parties' assessments of bills of costs in civil cases and this reflects the levelling out of the impact of Predictable Costs in Road Traffic Cases, the reduction in technical challenges to Conditional Fee Agreements and fixed success fees. The number of legal aid only assessments is lower than last year; it is likely that this drop results from the introduction of standard fees in Section 31 Public Law care proceedings. Following the marked increase in appeals from Crown Court determining officers in 2007, these have now returned to levels regularly seen in previous years. Court of Protection assessments are also lower than last year.

## Publicly-funded legal services (Table 11.3)

The Legal Services Commission (LSC) operates the two Legal Aid schemes in England and Wales, through which nearly all publicly-funded legal services are commissioned from independent suppliers.

The Community Legal Service (CLS) provides civil and family legal services. Work commissioned via the CLS is divided into two types: Legal advice and assistance; and Legal representation by solicitors and barristers in civil or family cases.

The Criminal Defence Service (CDS) provides legal services to those arrested, charged or prosecuted in connection with a criminal offence.

The LSC annual report for 2011/12 will be published later in 2012 and it will be available at:

[www.legalservices.gov.uk/aboutus/how/strategic\\_publications.asp#annual](http://www.legalservices.gov.uk/aboutus/how/strategic_publications.asp#annual)

For 2010/11 the LSC's CLS and CDS delivered over 2.5 million acts of assistance between them, a decrease of seven per cent compared to the peak in 2008/09. Total cash payments and net expenditure for all publicly funded legal services also were down compared to the previous year. More detail on these issues is available from the Legal Services Commission website at: [www.legalservices.gov.uk](http://www.legalservices.gov.uk).

### **Funding of Crown Court Representation (Tables 11.4 – 11.6)**

In 2010, means testing was extended to applicants for legal aid in the following criminal proceedings at the Crown Court:

- Trials (cases committed/sent or transferred for trial by a magistrates court, voluntary bills and re-trials ordered by the Court of Appeal)
- Appeals from a magistrates' court decision
- Committals for sentence

The Crown Court means testing scheme was first piloted at five courts in January 2010, followed by a gradual roll out nationally by region between April 2010 and June 2010.

Prior to the introduction of means testing in the Crown Court, applicants for legal aid in trial and committals for sentence cases automatically passed the interests of justice test. However, applications for legal aid in appeal cases at the Crown Court were required to satisfy the criteria for this test to be eligible for legal aid in Crown Court.

Under the Crown Court means testing scheme applications for legal aid in trial, committals for sentence and appeal cases are filed and processed in the magistrates' court.

Applications for legal aid in contempt proceedings (as referred to in Section 12(2)(f) of the Access to Justice Act 1999) and breaches (failure to comply with an order of the Crown Court) are not subject to the means test, but must satisfy the interests of justice criteria before a Representation Order for the Crown Court is granted. These applications are filed and processed in the Crown Court.

In 2011, 109,617 applications for legal aid were made in magistrates' courts for representation in trial and committed for sentence cases at the Crown Court. This represents an 11 per cent decrease on the previous year and continues the decreasing trend of applications observed since the introduction of Crown Court means testing in June 2010.

In 2011, 3,577 applications for legal aid in appeal cases were made in the magistrates' courts for representation in the Crown Court. This represents an increase of 10 per cent on the previous year. This is due to the processing of legal aid applications appeal cases moving from the Crown Court to the magistrates' courts (Table 11.6). As a result there is a 95 per cent decrease in legal aid applications for appeal cases filed in the Crown Court since 2010 (Table 11.4).

For the same reason given for appeal cases, the volume of legal aid applications submitted in the Crown Court for trial and sentence cases have also decreased respectively by 74 per cent and 20 per cent between 2010 and 2011. Committed for sentence cases have shown less of a decline than the trial cases as breaches continue to be filed in the Crown Court and are counted under committed for sentence cases.

The percentage of defendants receiving publicly funded legal representation was 98 per cent in 2009. Since the introduction of means testing in 2010, this percentage has declined from 95 per cent in 2010 and to 89 per cent in 2011 for defendants in trial cases to the Crown court. The decline in publicly funded cases has been greater in 'sent for trial' than 'committed for trial' cases. The remaining 11 per cent either received privately-funded representation or were not represented. The corresponding figure for defendants committed to the Crown Court for sentence, after a summary trial in the magistrates' courts, was 84 per cent, and for those appealing against the decisions of magistrates' courts, was 44 per cent.

## Annex A: Data sources and data quality

This annex gives brief details of data sources for the figures given in this report, along with a brief discussion on data quality. All data in this edition of *Judicial and Court Statistics* relates to the calendar year 2011, unless otherwise noted.

### Chapter 1: County courts (non-family)

This information has principally been produced using the Management Information System (MIS), a data warehousing facility drawing data directly from court-based administrative systems. Most data shown in the tables have been sourced from the county court administrative system CaseMan, used by court staff for case management purposes. This contains good quality information about the incidence and dates of major events in a case's progress through the court system. Statistical quality assurance procedures include the identification and removal of duplicate entries for the same event in a case, and checks that data have been collated for all courts to ensure completeness.

From Q3 2011 onwards, the numbers of insolvency petitions have been sourced from CaseMan. Previously these figures were sourced from manual counts made by court staff. Primarily due to the removal of duplicate entries, which is possible with the CaseMan administrative data, the figures for Q3 2011 onwards are approximately three per cent lower overall (both including and excluding the Royal Courts of Justice) than if they had been sourced from the manual returns. Looking at specific categories of insolvency case, company winding up petitions are around half of one per cent lower, creditors bankruptcy petitions are approximately four per cent lower, and debtors bankruptcy petitions are around three per cent lower. This should be taken into consideration when making comparisons of insolvency figures for Q3 2011 onwards with those from previous periods.

The numbers of insolvency petitions (up to Q2 2011), applications for administration orders, administration orders made and orders for sale are sourced from manual counts made by court staff. Since April 2009 these have been recorded in the HMCTS Performance database, a web-based data monitoring system allowing direct inputting of performance data by court staff. Prior to April 2009 they were inputted into the Business Management System, designed for the purpose of monitoring and assessing court workloads. Quality assurance measures are in place to ensure that data are of sufficient quality, including querying with courts where their counts look unusually high or low and obtaining corrected figures if errors are identified.

Table 1.6 shows statistics on unspecified money claims, broken into several value ranges. The figures split by amount are counted based on the claim issue fee paid, this indicating the value range of the claim. The issue fee was either not present or didn't correspond to any of the claim value ranges (sometimes due to exemption or remission) in around four per cent of claims in each year.

The numbers of small claims hearings, trials and repossessions of property by county court bailiffs are sourced from CaseMan. The accuracy of the trial/small claim hearing counts is dependent on court staff entering the correct hearing types and outcome codes onto the system. The accuracy of the repossession figures is dependent on court staff entering the correct warrant outcome codes onto the system. As a result, these statistics are considered to be of lower quality than the other main case event volumes derived from CaseMan.

Table 1.11 shows the average time between case issue, allocation to track (for fast and multi-track cases) and the start of a small claims hearing or trial, plus statistics on the duration of small claims hearings and trials. The statistics on average times between the major case milestones are sourced from CaseMan. The statistics on hearing / trial durations are sourced from, respectively, the small claims sampler and the trial sampler. The small claims sampler is a manual form which 29 county courts were required to complete for three months during the year. The trial sampler is a manual form which all county courts were required to complete for two months during the year. As such, these statistics represent the results for minority subsets, and are not based on all such hearings / trials occurring across England and Wales during the year.

Some figures for 2006 and 2010 are different to those previously published in past editions of Judicial and Court Statistics. The revisions have already been published in Court Statistics Quarterly and relate to:

- The numbers of trials and the average times between issue and trial, issue and allocation to track, and allocation to track and trial as shown in tables 1.8, 1.10, and 1.11. These were first published in the Q2 (April to June) 2011 edition of Court Statistics Quarterly. Further analysis on trial data has indicated that some hearings previously counted as trials were actually disposal hearings where the court decides the amount to be paid following a judgment in favour of the claimant. A comparison of the old and new figures for each year from 2003 to 2010 is provided in Table A1 of the Q2 2011 edition of Court Statistics Quarterly.

- applications for administration orders and administration orders shown in Table 1.18. These were first published in the Q3 (July to September) 2011 edition of Court Statistics Quarterly. Further quality assurance of source data indicated that some manual counts provided by courts which were included in the figures should in fact have been excluded. A comparison of the old and new figures for each year and quarter from Q1 2008 to Q2 2011 is provided in Table A1 of the Q3 2011 edition of Court Statistics Quarterly.

## **Chapter 2: Family related court matters**

The data on the family related court matters is principally sourced from the county court administrative system FamilyMan, used by court staff for case management purposes and containing good quality information about a case's progress through the family courts. Some data are also sourced from the HMCTS Performance database. Statistical quality assurance procedures include the identification and removal of duplicate entries for the same case on the administrative systems, and checks that data have been collated for all courts to ensure completeness.

Some points to note about counting rules in the statistics:

- A disposal which occurs in one quarter or year may relate to an application which was initially made in an earlier period.
- An application of one type may lead to an order of a different type being made.
- The statistics on matrimonial, ancillary relief and domestic violence proceedings are counted by case. The statistics on public law and private law proceedings relate to the number of children which are subject to applications: for example if two children are the subject of a single case then the children would be counted separately in the statistics. Different types of orders may be made in respect of different children involved in a case.

Public law and private law Children Act figures are given in Tables 2.1 to 2.4. In 2011 data for all courts has been sourced from FamilyMan. For earlier years, FamilyMan provided data for county courts and for the Family Proceedings Courts which share premises and administrative systems with county courts; data for other Family Proceedings Courts was provided on electronic summary returns submitted to HMCTS Business Information Division on a monthly basis. Figures prior to 2007 for Family Proceedings Courts were weighted estimates based on data from a subset of courts. There are known data quality problems with these, which are likely to be an undercount.

Starting at the end of 2009, an upgrade to the administrative system in all county courts and Family Proceedings Courts was rolled out nationally. This upgrade was completed in December 2010 following a staggered rollout. During subsequent compilation of figures for public and private law applications, issues were identified concerning the way in which cases that are transferred between courts are being counted. This issue resulted from the system upgrade which now records transfers between courts differently to ensure that no duplicate records of these transfers are held in the system. The methodology to count public and private law applications has been reviewed and updated to ensure that transfers are counted accurately and, as such, previously published data for 2010 for FPCs have been revised.

In addition, a review of the data compilation methodology for counting public and private law disposals was conducted to develop a more accurate process. As a result a new methodology was introduced this year which incorporates a more robust and well-understood process for calculating the number of disposals. This methodology provides a more effective method for avoiding the double-counting of duplicate entries and compiling the statistics directly from the data and tables held within the family court administrative database.

Figures on the number of matrimonial proceedings are given in Table 2.5. Statistics on the number of divorces occurring each year in England and Wales are also published by the ONS. The Ministry of Justice's divorce statistics are sourced directly from the FamilyMan system, while the ONS data are compiled from 'D105' forms used by the courts to record decrees absolute, which are supplied to ONS for compiling the central index of decrees absolute. There are small differences between the number of divorces as recorded by the two sets of statistics. Statisticians at the Ministry of Justice and ONS worked together with HM Courts and Tribunals Service to understand these differences and reconcile where possible. Please see the joint statement produced by the MoJ and ONS on the differences in these divorce statistics attached to Court Statistics Quarterly.

The information on Forced Marriage Protection Orders in [Table 2.10](#) was taken from the HMCTS Performance database. This is a regularly updated, web-based performance system which enables aggregation to national level of returns from individual courts.

Figures for [Table 2.11 and 2.12](#) were provided by the Principal Registry of the Family Division, a division of the High Court.

## **Adoption**

An adoption order made by a court extinguishes the rights, duties and obligations of the natural parents or guardian and vests them in the adopters. On adoption the child becomes, for virtually all purposes in law, the child of its adoptive parents and has the same rights of inheritance of property as any children born to the adoptive parents.

The Adoption and Children Act 2002 was implemented on 30 December 2005, replacing the Adoption Act 1976. The key changes resulting from the new act are:

- alignment of adoption law with the Children Act 1989 to ensure that the child's welfare is the most important consideration when making decisions
- provision for adoption orders to be made in favour of unmarried couples
- the introduction of Special Guardianship Orders, intended to provide permanence for children for whom adoption is not appropriate.

The Office for National Statistics (ONS) will publish adoption figures for 2011 later in 2012.

## **Chapter 3: Magistrates' Courts**

Since 2008 the HMCTS Performance Database OPT has been used for collecting data on most aspects of magistrates' courts activity. This is a web-based performance system which enables aggregation to national level. In most cases the 2008 data is comparable with earlier data, but this does not apply to caseload data. The data sources used within this chapter are briefly discussed below.

### **Defendants Proceeded Against**

The figures presented here are derived from the Completed Proceedings report on the HMCTS Performance Database OPT, which covers all cases dealt with in magistrates' courts – criminal and otherwise.

The statistics on completed proceedings is populated based on information contained on the Libra MIS and Manual data collection. This contains good quality information about magistrates' courts' caseloads. Data provided by the courts must be checked and verified at case level by court staff before being submitted on OPT, and the centrally collated data are subject to further checks including the investigation of apparent anomalies in the data. The data are necessarily subject to the inaccuracies inherent in any large-scale data recording system

Prior to 2008, figures were obtained from the Office for Criminal Justice Reform's Court Proceedings Database, which collected data from a variety of administrative databases held by courts and police forces. Due to a changeover in the data collection system, comparable data were not available for 2008. As the datasets in OPT and the Court Proceedings Database are not identical, results cannot be directly compared. Therefore in this bulletin no comparison is made between the caseload figures for 2008 and earlier years.

The OPT data is case-based, so where a case has more than one offence, only the most serious offence is counted.

### **Timeliness of criminal proceedings**

Experimental statistics on the timeliness of criminal proceedings completed in the criminal courts (magistrates' courts, presented in Chapter Three, and the Crown Court, presented in Chapter Four) are sourced from linking together extracts taken from CREST and the Libra MIS. The datasets are produced by firstly collecting all Crown Court cases disposed of in the specified quarter and looking for a match for the defendant with the same offence in the magistrates' court data. Records are linked based on a combination of variables including given name, middle name, family name, date of birth, sex, postcode, a committal date, and two identifiers: the Arrest/Summons Number (ASN) and Pre-Trials Issue Unique Reference Number (PTIURN). Where the case is fully disposed in the magistrates' courts during the specified time period, the timeliness data for such cases is collected from the Libra MIS extract and added to the dataset.

A range of quality assurance measures have been carried out on the data. These include ensuring the data are complete, case events follow a logical date sequence with recorded offence information, and all breach cases are excluded. Times are analysed for anomalies or error, including the removal of cases with recorded durations of over ten years to ensure the average times reported are not distorted by incorrect data. Data cleaning is also carried out prior to matching the magistrates' and Crown Court datasets to ensure that minor differences between the recording of similar entries on the two systems do not materially affect the ability to match records.

The CREST system and Libra MIS reports provide good quality data and a high rate of data linking, with typically around 95 per cent of Crown Court records on CREST being successfully linked to a defendant recorded at a magistrates' court case on the Libra MIS extract.

The experimental statistics on the timeliness of criminal proceedings completed in the magistrates' courts are sourced from the Libra MIS extract. Previously, statistics on the duration of criminal proceedings in the magistrates' courts were taken from the quarterly Time Intervals Survey (TIS), which was based on a sample of cases, namely those which completed during a specified week each quarter. Due to recent improvements in the quality of data held on magistrates' courts administrative systems, with effect from June 2011 the TIS has been discontinued, and replaced by these new administratively sourced statistics. The Libra MIS extract provides good quality information on the timeliness of all criminal cases which complete in magistrates' courts, whether they are finally dealt with or passed on to the Crown Court for trial. As a result of this change in source, the statistics are now based on all criminal proceedings dealt with in the magistrates' courts and not a sample as previously provided in the TIS.

Detailed information on previous magistrates' courts' timeliness sourced from the TIS can be found on the MoJ website at:

[www.justice.gov.uk/statistics/criminal-justice/magistrates-times](http://www.justice.gov.uk/statistics/criminal-justice/magistrates-times)

## **Trials**

The figures presented on trials are collected and processed by the Business Information Division in HMCTS. Prior to April 2007 the data was collected on the cracked and ineffective trial monitoring forms. The HMCTS Performance Database 'was introduced in April 2007 and has been used since then for data collection. The figures are vulnerable to external factors such as human error and missing data due to non-returns.

The numbers of effective, cracked and ineffective trials are monitored, as well as the reasons for cracked and ineffective trials. These individual reasons are then grouped.

## **Enforcement**

The figures presented on fine enforcement are from the debt analysis return (DAR) collected and processed by the Business Information Division in HMCTS. The information is collated to provide national figures. OPT has been used for data collection since its introduction in April 2007.

## **Chapter 4: Crown Court**

This information has been produced using the MIS, a data warehousing facility drawing data directly from court-based administrative systems. Most data shown in the tables have been sourced from the Crown Court administrative system CREST, used by court staff for case management purposes. This contains good quality information about the incidence and dates of major events as each case proceeds in the Crown Court. Statistical quality assurance procedures include the identification and removal of duplicate entries, checks of apparent anomalies and checks for completeness.

The publications Criminal Justice Statistics and Judicial and Court Statistics both contain data on the number of proceedings heard in the Crown Court. The figures are derived from the same core source (the CREST system), but they are not directly comparable as there are known differences between them. These are due to a number of factors, including differences in the data collation methods and counting methodologies used, which reflect different underlying drivers of the analyses being performed. By way of broad illustration, Criminal Justice Statistics counts numbers of defendants and focuses on the final outcomes of criminal court proceedings, whilst Judicial and Court Statistics counts numbers of cases and focuses on flows through the court system. Work is currently under way to investigate and review the differences between the two sets of statistics and their compilation processes with a view to aligning them in the future.

During 2006 changes were made to the Crown Court centres. A new Crown Court centre was created, Mold, which was a satellite court, became independent, and Warrington, which was independent, became a satellite of Chester. Welsh courts that were satellites of Chester (Caernarvon and Dolgellau) became satellites of Mold. These changes were made in preparation for the change in the regions which made Cheshire a part of the North West and Wales a region on its own. When Mold became independent, the information about the existing cases being dealt with was copied to the new system from Chester. This meant that some cases existed on both systems and data have been adjusted accordingly to avoid duplication in the statistics for this period.

## **Chapters 5, 6 and 7: High Court and Appellate Courts**

All the statistics in these chapters are provided specifically for this publication, and are ultimately sourced based on information contained on a range of administrative systems used by court staff for case management purposes.

The *Judicial and Court Statistics* compilation team carry out some statistical quality assurance procedures on receipt of the data, such as checks of apparent anomalies.

## **Chapters 8, 9, 10 and 11: Other Courts and Offices**

Information for the Mental Capacity Act, the Office of the Supreme Court, the Judiciary and Assessment of litigation costs, and publicly funded legal services have been produced using the MIS, a data warehousing facility drawing data directly from court-based administrative systems. Most data shown in the tables have been sourced from the Court of Protection, the Office of the Public Guardian, the Office of the Official Solicitor and Public Trustee, Tipstaff, Judicial Communication Office, Supreme Court Costs Office and the Crown Court administrative system CREST. These MIS contain good quality information about a cases progress. Statistical quality assurance procedures include the identification and removal of duplicate entries, checks of apparent anomalies and checks for completeness.

When the Mental Capacity Act 2005 came into force on 1 October 2007, the role and function of the Court of Protection changed, and in addition, the OPG was established. As there was a change in the type of data collected from October 2007, the data reported on previously for the old Court of Protection and Public Guardianship Office is no longer relevant, and therefore figures presented in this report are not fully comparable with figures published in earlier reports.

# Glossary

This glossary provides a brief description of some of the main terms used in the commentary of this report. For further information, please contact the Justice Statistics Analytical Services division using the details provided in the **Explanatory Notes** section at the end of this bulletin.

## County courts (non-family)

Administration order: Combines a debtor's debts under certain conditions (see footnote to Table 1.18), enabling the debtor to make regular payments to the court which are then distributed to the various creditors.

Attachment of earnings order: Obliges the debtor's employer to deduct a set sum from the debtor's pay and forward it to the court.

Bankruptcy petitions: Petitions made by a debtor (who owes the debt) or one or more creditors where an individual is unable to pay his or her debt(s).

Charging order: Enables the creditor to obtain security for the payment against an asset(s), typically property, owned by the debtor.

Claims for recovery of land: Include claims for the repossession of property by a mortgage lender, social or private landlord e.g. where the mortgagee or tenant fails to keep up with mortgage or rental payments.

Company windings up petitions: Petitions made by a creditor, shareholder or director to wind up (or dissolve) a company which cannot pay its creditor(s), to whom debt is owed.

Order for sale: A court order forcing the debtor to sell an asset(s), typically a property, following a charging order.

Small claim / fast track / multi track cases: If a claim is defended, the next step is for further information to be provided by the parties following which a judge in the county court assigns the case to one of three case management tracks. The "small claims track" is for less complex cases, which have claim values of up to £5,000 (or £1,000 for personal injury and housing disrepair matters). The "fast track" is for more complicated cases with a claim value of over £5,000 (or £1,000 for personal injury and housing disrepair matters) and up to £15,000 for proceedings issued before 6 April 2009, otherwise £25,000. The "multi track" is for the most complex cases which are not allocated to the small claim or fast track. Many defended cases are settled by the parties involved, or withdrawn, either before or after allocation to one of these tracks. Around half of cases allocated to the small claims track are resolved at small

claims hearings while a much lesser proportion of cases allocated to the fast or multi track are disposed of by trials.

Specified money claims: Claims made by an individual, company or organisation for a specified amount of money e.g. £15,000.

Third party debt order: Enables the creditor to secure payment by freezing and then seizing money owed or payable by a third party to the debtor.

Unspecified "money" claims: Claims made by an individual, company or organisation for an unspecified amount of money e.g. when claiming for damages/compensation for loss or injury, the amount claimed is limited to £10,000.

Warrant of committal: Enforces a judgment for which the penalty for failure to comply is imprisonment. It authorises the bailiff to arrest the person and deliver them to prison or court.

Warrant of delivery: Enforces a judgment for the return of particular goods or items.

Warrant of execution: To enforce a judgment made where unless the amount due under the warrant is paid, saleable items owned by the debtor can be recovered by the court and sold.

Warrant of possession: To enforce a court order for the repossession of property.

## **Family related matters**

Ancillary Relief: This refers to a number of different types of order used to settle financial disputes during divorce proceedings. Examples include: periodical payments, pension sharing, property adjustment and lump sums, and they can be made in favour of either the former spouse or the couple's children.

Application: The act of asking the court to make an order.

Decree Absolute: This is the final order made in divorce proceedings that can be applied for six weeks and one day after a decree nisi has been given. Once this is received, the couple are no longer legally married and are free to remarry.

Decree Nisi: This is the first order made in divorce proceedings and is given when the court is satisfied that there are reasonable grounds for granting the divorce. It is used to apply for a decree absolute.

Dissolution: The legal termination of a marriage by a decree of divorce, nullity or presumption of death or of a civil partnership by the granting of a dissolution order.

Divorce: This is the legal ending of a marriage.

Judicial Separation: This is a type of order that does not dissolve a marriage but absolves the parties from the obligation to live together. This procedure might, for instance, be used if religious beliefs forbid or discourage divorce.

Non-molestation Order: This is a type of civil injunction used in domestic violence cases. It prevents the applicant and/or any relevant children from being molested by someone who has previously been violent towards them. Since July 2007, failing to obey the restrictions of these orders has been a criminal offence for which someone could be arrested.

Nullity: This is where a marriage is ended by being declared not valid. This can either be because the marriage was void (not allowed by law) or because the marriage was voidable (the marriage was legal but there are circumstances that mean it can be treated as if it never took place).

Occupation Order: This is a type of civil injunction used in domestic violence cases. It restricts the right of a violent partner to enter or live in a shared home.

Order: The document bearing the seal of the court recording its decision in a case.

Petition (for divorce): An application for a decree nisi or a judicial separation order.

Private Law: Refers to Children Act 1989 cases where two or more parties are trying to resolve a private dispute. This is commonly where parents have split-up and there is a disagreement about contact with, or residence of, their children.

Public Law: Refers to Children Act 1989 cases where there are child welfare issues and a local authority, or an authorised person, is stepping in to protect the child and ensure they get the care they need.

## **Magistrates' courts**

Adult breach proceedings: Proceedings against an adult defendant (aged 18 or over) who has breached an order which was previously imposed against him/her.

Adult indictable cases: The most serious offences, such as murder and rape, which must be heard at a Crown Court. The involvement of the magistrates' court is brief: a decision is made on whether to grant bail, and other legal issues, such as reporting restrictions, are considered. The case is then passed to the Crown Court.

Adult summary proceedings: The less serious offences, where the defendant is an adult (aged 18 or over). The defendant is not usually entitled to trial by jury, so these cases are disposed of in the magistrates' courts. Summary offences are subdivided into Summary Motoring and Summary Non-Motoring cases:

- Adult summary motoring proceedings: Offences, such as driving whilst disqualified speeding and failure to stop.
- Adult summary non-motoring proceedings: Offences such as TV license evasion, minor assaults and criminal damage where less than £5000 worth of damage is caused.

Adult triable-either-way cases: These are more serious than summary offences, and can be dealt with either by magistrates or before a judge and jury at the Crown Court. Such offences include dangerous driving and theft and handling stolen goods. A defendant can invoke his/her right to trial in the Crown Court, or the magistrates can decide that a case is sufficiently serious that it should be dealt with in the Crown Court where tougher sentences can be imposed if the defendant is found guilty.

'Cracked' trial: A trial where, on the day, an acceptable plea is offered by the defendant or the prosecution offers no evidence against the defendant.

Criminal proceeding: The administration of justice in cases involving an individual who has been accused of a crime, beginning with the initial investigation of the crime and concluding either with an acquittal or conviction.

'Effective' trial: A trial which begins on the scheduled date and reaches a conclusion.

'Ineffective' trial: A trial that does not go ahead on the scheduled trial date due to action or inaction by one or more of the prosecution, the defence or the court and a further listing for trial is required.

Youth proceedings: These are proceedings of any type where the defendant is a youth, aged between 10 and 17.

### **Timeliness of criminal proceedings (Chapter Three and Chapter Four)**

Charge or laying of information: This relates to when the defendant is first charged at a police station (for charged cases, where an individual is arrested and formally accused of a crime at a police station) or when the information is laid (for summonsed cases, where an individual receives a written summons advising that an action has been begun against them, and that they are required either to appear in person, or to respond in writing, to the court regarding the alleged offence).

Completion in magistrates' courts: When a defendant's case is completed in the magistrates' courts, either when a final decision is reached or the case is passed to the Crown Court.

Completion: When a defendant's case is completed and a final decision is reached in either the magistrates' courts or the Crown Court.

Date of offence: This relates to the date the alleged offence was committed.

First listing: The first hearing of the case in a magistrates' court, whether or not the defendant is present.

### **Magistrates' courts enforcement data**

Financial Impositions: monies owed by defendants, which include court fines, prosecutors' costs, compensation orders, penalty notices and victim surcharge. Excludes confiscation orders

Imposition month: the month in which the fine, costs, court orders, penalty notices, or victim surcharge was ordered by the court.

Fines, prosecutors' costs and compensation orders: These items are imposed by both magistrates' and Crown court but are enforced by magistrates' courts. Fines monies collected by HMCTS are surrendered to the Consolidated Fund. Prosecutors' costs and compensation order monies are passed by HMCTS to either Crown or private prosecutors and the victims of the crimes committed respectively.

Confiscation Orders: Confiscation orders are imposed by the Crown Court under the Proceeds of Crime Act 2003 and are enforced by HMCS, the Crown Prosecution Service and Serious Fraud Office (SFO). Confiscation order receipts are surrendered to the Home Office.

Penalty Notices: Penalty Notices are imposed by the police and other agencies and include both Fixed Penalty Notices (FPNs) for traffic rule violations and Anti-Social Behaviour Orders (ASBOs). Notices that remain unpaid after 28 days are converted into fines and enforced as detailed above. Receipts of Penalty Notices and the associated fines are surrendered to the HM Treasury Consolidated Fund.

Victims' Surcharge: An additional surcharge is added to fines that are imposed and are enforced as detailed above. The receipts obtained from the collection of these monies by HMCS are passed to the Justice Policy Group of the MoJ to fund victims' services.

## **Crown Court**

The Crown Court deals with serious criminal cases, which can be classified into the following four categories:

(a) Sent for trial cases: Cases sent for trial by the magistrates' court because they can only be heard by the Crown Court.

(b) Committed for trial cases: Cases which can be heard in either a magistrates' court or the Crown Court. A defendant can elect to be tried in the Crown Court or a magistrate can decide that a case is sufficiently serious that it should be dealt with in the Crown Court.

(c) Committed for sentence cases: Cases transferred to the Crown Court for sentencing where defendants are found guilty in the magistrates' court. This happens if a magistrate is of the opinion that a greater punishment should be imposed than they are allowed to impose.

(d) Appeals against the decisions of magistrates' courts.

Bench warrant: A bench warrant is issued for a person deemed to be in contempt of court—usually as a result of that person's failure to appear at their court appearance. Once a bench warrant has been issued, the case is considered disposed of. Following the apprehension of the person, the bench warrant is executed and the case is reopened.

Circuit: A geographical area where a judge has the judicial authority to decide on cases. The jurisdiction can encompass a range of counties or districts.

Circuit Judge: A judge who normally sits in the county court and/or Crown Court.

Class: Offences are classified according to their seriousness. In the Crown Court, there are three classes of criminal offence; and the class of a case is based on the most serious offence. Class 1 offences are the most serious offences. They include treason and murder and are normally heard by a High Court Judge. Class 2 offences include rape and are usually heard by a Circuit Judge under the authority of the Presiding Judge. Class 3 includes all other offences such as kidnapping, grievous bodily harm and robbery, which are normally heard by a Circuit Judge or Recorder.

'Cracked' trial: A trial that does not go ahead on the day and does not need be re-scheduled and the case has reached an outcome. This occurs when an acceptable plea is offered by the defendant or the prosecution offers no evidence against the defendant.

Dealt with: Once a court has reached a judgement against a defendant in respect of all charged offences, that defendant is considered 'dealt with'.

Defendant: A person or company against whom a charge is brought in court.

Disposal: The completion of a case referred to the Crown Court. In other words, a case is considered disposed of when all defendants involved have been dealt with by the court.

'Effective' trial: A trial which begins on the scheduled date and reaches a conclusion.

Guilty plea: A guilty plea is recorded if a defendant either: (i) pleads guilty to all counts; (ii) pleads guilty to some counts and not guilty to others and no jury is sworn in respect of the not guilty counts; or (iii) pleads not guilty to some or all counts but offers a guilty plea to alternatives which are accepted (providing no jury is sworn in respect of other counts). A case is treated as a guilty plea only if pleas of guilty are recorded in respect of all defendants.

Hearing time: The total duration of all hearings heard in the Crown Court for each case including preliminary, main and sentence hearings.

High Court Judge: A judge who sits in the High Court of Justice.

'Ineffective' trial: A trial that does not go ahead on the scheduled trial date due to action or inaction by one or more of the prosecution, the defence or the court and a further listing for trial is required.

Receipt: A case referred to the Crown Court.

Recorder: A recorder's jurisdiction is broadly similar to that of a Circuit Judge, but handles less complex or serious matters coming before the court.

Waiting time: The length of time between the date of sending or committal and the start of the substantive Crown Court hearing.

## **High Court**

Admiralty Court: Deals with shipping and maritime disputes, such as ship collisions and damage to cargo.

Bankruptcy: Insolvency (inability to pay debts) of individuals.

Bankruptcy and Companies Court: Deals with cases involving companies and company or individual insolvency / bankruptcy. It primarily deals with matters under the Insolvency Act 1986, the Company Directors Disqualification Act 1986, the Companies Act 1985 and the Financial Services and Markets Act 2000.

Chancery Division: One of the three divisions of the High Court (along with the Queen's Bench Division and Family Division), and considers matters in relation to trust law, the administration of estates, guardianship and charities.

Commercial Court: Deals with complex cases arising out of business disputes, both national and international, including in relation to international trade and banking.

Comptroller General of Patents: The head of the UK Patent Office.

Family Division: One of the three divisions of the High Court (along with the Chancery Division and Queen's Bench Division), and is concerned with matrimonial matters and proceedings relating to children or adults who cannot make decisions for themselves.

Interlocutory proceedings: Court hearings that take place before the full trial.

Master: Judicial officer of the High Court who primarily deals with procedural matters.

Patents Court: Specialist court which deals with matters concerning intellectual property such as patents and registered designs.

Queen's Bench Division: One of the three divisions of the High Court (along with the Chancery Division and Family Division), and deals with civil disputes including those relating to breach of contract, personal injuries, commercial cases, libel and slander.

Royal Courts of Justice: Administratively part of Her Majesty's Courts and Tribunals Service, and is the building in London which houses the Court of Appeal, the High Court and the Probate Service.

Technology and Construction Court: Deals with building and engineering disputes and computer litigation.

Tort: Any private or civil wrong for which private damages may be claimed, not including a breach of contract.

Writs of fieri facias (fi-fa): Orders an officer to take or sell property belonging to a debtor until the value of the property taken equals the amount of the debt. This is also called a writ of control.

## **Appellate Courts**

Allowed: Appeals given a final result of 'Allowed' or 'Allowed with consent'.

Appeal: A formal request to a higher court that the verdict or ruling of a court be overturned.

Dismissed: Appeals given a final result of 'Refused'.

Dismissed by Consent: Appeals given a final result of 'Dismissed with consent'.

Filed: Cases filed/setdown within period.

Habeas corpus: An order requiring a prisoner to be brought to court, to allow the court to determine if their detention is lawful.

Otherwise Disposed: Appeals given a final result of 'Not our Jurisdiction', 'Totally Without Merit', 'Varied with Consent', 'Other Result', and 'Remitted'.

Struck out for failure to provide documents: Appeals given a final result of 'Dismissal List' or 'Struck out'.

## **Terms used in the other chapters of this bulletin**

Deputyships: The level of support and supervision the OPG allocates to a Deputy is decided after carrying out an assessment of the individual circumstances of the case.

Judicial sitting days: Sittings by deputy High Court judges include retired Lords Justices, retired High Court judges and Circuit Judges sitting as High Court judges under section 9(1) of the Supreme Court Act 1981 and practitioners sitting as deputy High Court judges under section 9(4) of the Act. Deputy Circuit Judge sittings refer only to sittings by retired Circuit Judges.

Lasting Power of Attorney: The Property and Affairs LPA allows the Donor to appoint an Attorney to manage their finances and property whilst they still have capacity to make decisions for themselves. The Personal Welfare LPA allows the Donor to appoint an Attorney to make decisions on their behalf about their personal welfare. A Personal Welfare LPA can only be used when the Donor lacks the capacity to make these decisions for themselves.

# Explanatory notes

1. This report provides statistics on activity in the county, family, Crown and magistrates' courts of England and Wales along with statistics on the work of the High Court, Court of Appeal, UK Supreme Court and some associated offices and agencies. This is the sixth annual court statistics report to be published by the Ministry of Justice. Previous editions were published by the Department for Constitutional Affairs and its predecessors. For the 2005 edition and earlier years it was entitled *Judicial Statistics*.
2. Quarterly statistics on activity in the county, family, Crown and magistrates' courts are also published by the Ministry of Justice in the statistical report *Court Statistics Quarterly*. Statistics for Q1 (January to March) of 2012 are published by the Ministry of Justice at the same time as this edition of *Judicial and Court Statistics*.
3. Breakdowns of many of the summary figures presented in this bulletin, such as split by case type or by HM Courts and Tribunals Service area, are available on request. Please contact the Justice Statistics Analytical Services division using the details in the **Contacts** section.
4. **Revisions:** The statistics published in this bulletin represent final figures for the 2011 calendar year. For the statistics relating to the county courts (non family), family related matters, magistrates' courts and Crown Courts in chapters 1 to 4, provisional figures for each quarter of 2011 (and, when aggregated, for the calendar year) have already been published in editions of *Court Statistics Quarterly*. As these statistics are primarily sourced for administrative databases, they are, as standard, revised to take account of any late amendments to the records. This report presents the final figures for 2011, which incorporate revisions to the previously-published statistics to account for any such late amendments. The 2011 statistics would not usually be revised further to reflect any future updates to administrative sources. The revised statistics for 2011 are also included within the Q2 (January to March) 2012 edition of *Court Statistics Quarterly*.

## Symbols and conventions

The following symbols have been used throughout the tables in this bulletin.

0 = Nil

- = Not applicable

n/a = Not available

(r) = Revised data

(p) = Provisional data

\* = Averages are not shown where there are fewer than 20 cases in a given year

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General information about the official statistics system of the UK is available from [www.statistics.gov.uk](http://www.statistics.gov.uk)

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