



Ministry  
of Justice



# **A Guide to Court and Administrative Justice Statistics**

Ministry of Justice

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# Introduction

This document aims at providing a comprehensive guide to the Court and Administrative system, focusing on concepts and definitions published in Ministry of Justice statistics. It also covers overall statistical publication strategy, revisions, data sources, quality and dissemination, and methodological developments. Ministry of Justice statistics currently covers the following Court and Administrative system sub-systems and services:

Figures for these are disseminated in the following publications:

[www.gov.uk/government/organisations/ministry-of-justice/about/statistics](http://www.gov.uk/government/organisations/ministry-of-justice/about/statistics)

- **Court Statistics Quarterly** (including information formally in Judicial and Court Statistics)
- **Gender Recognition Certificate Statistics**
- **Mortgage and Landlord Possession statistics**
- **Statistics on the use of language services in courts and tribunals**
- **Tribunals Statistics Quarterly** (including information formally in Annual Tribunals Statistics)
- **Coroners Statistics**

The focus of this document is mostly on civil and administrative aspects of these publications. However, there is some focus on criminal aspects in both *Court Statistics Quarterly* and *Statistics on the use of Language Services in Courts and Tribunals*.

The key areas covered in this guide are:

- A high level background to the Court and Administrative system on the topics featured within the bulletin.
- Information on the frequency and timings of the bulletin and the revisions policy.
- Details of the data sources and any associated data quality issues, including any upcoming Data developments relating to Court and Tribunal statistics.
- Major legislation coming into effect in the period covered by the bulletin.

- A list of relevant internet sites on the Court and Tribunal system.

There is also a glossary of terms used that is published alongside this report.

## Overview of Court and Administrative Statistics

This section describes the background to the various sections and stages of the Court and Administrative System. The Court and Administrative system is complex and covers a range of sub-systems and services, these include: County Courts (dealing with Civil and Family Business), Magistrates Courts (dealing with Criminal, Civil and Family Business), Gender Recognition Panels and First Tier Tribunals.

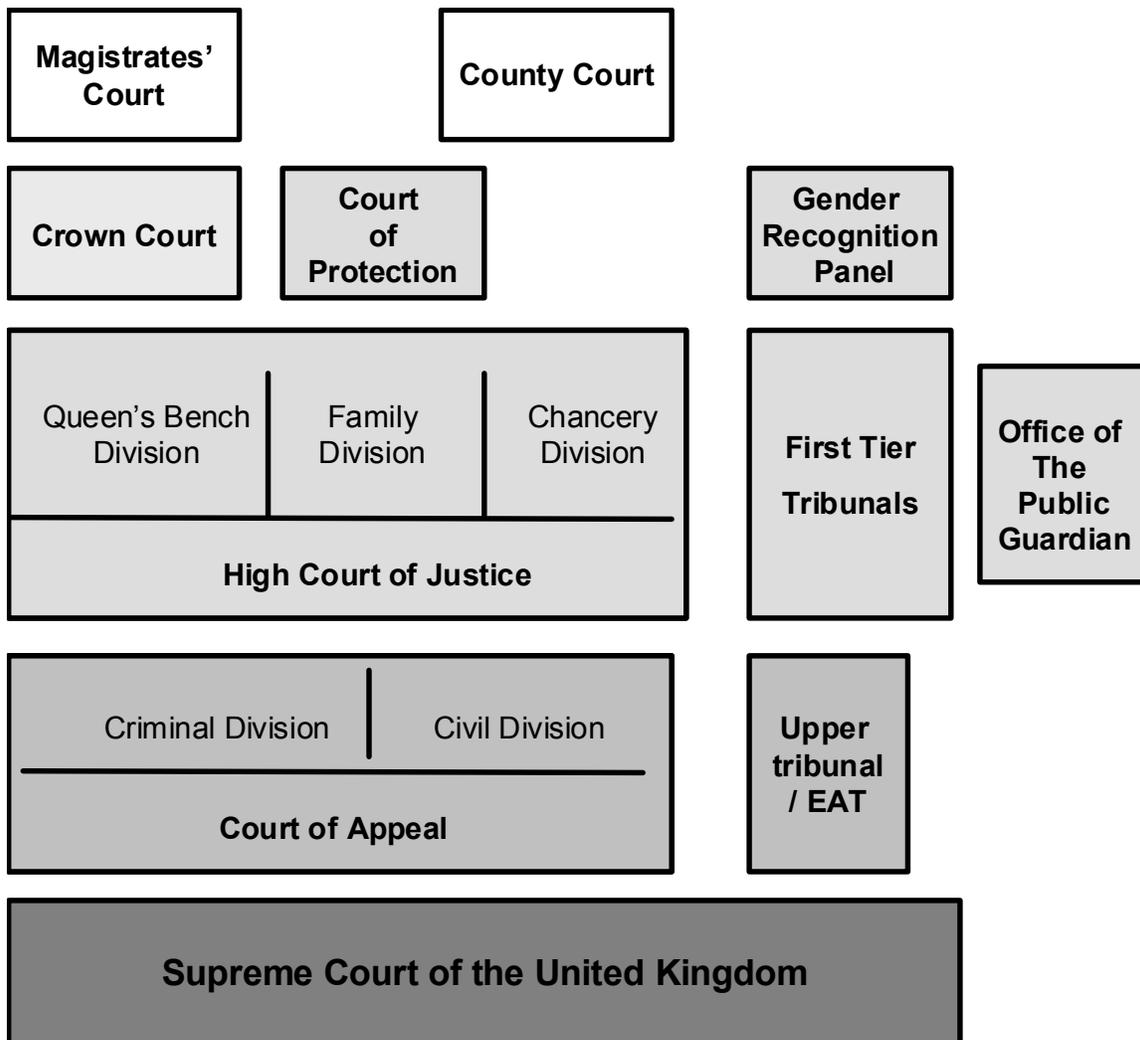


Figure 1: Simplified overview of Court and Administrative Systems

Cases can progress through the system to higher courts, including the Crown court, the High Court, Court of Appeal and Upper tribunals.

### **Civil (excluding family)**

The vast majority of civil cases in England and Wales which do not involve family cases 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, settle or are withdrawn before a hearing or trial. Complex or substantial cases are dealt with in the High Court.

## **Family**

All family cases 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 cases 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. Some civil and family cases are dealt with in the High Court rather than in a lower court.

## **Criminal**

Virtually all criminal court 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.

On 28<sup>th</sup> May 2013 committal hearings were abolished in magistrates' courts as part of wider measures to speed up justice and improve efficiencies in the justice system. As a result, cases are now sent straight to the Crown Court as soon as it is clear the matter is serious enough, rather than having to await a committal hearing. Committal hearings were abolished for indictable only cases in 2001.

## **Tribunals**

Tribunals cover England and Wales and non-devolved tribunals in Scotland and Northern Ireland. The First Tier Tribunals cover receipts (for example, cases accepted by HMCTS) in relation to Employment, Immigration and Asylum, Social Security and Child Support, Mental Health and a range of smaller more specialised activities. Following an outcome (decision) at the first tier stage, cases can then be progressed to the Upper Tribunal or Employment Appeal Tribunal (EAT).

## **Language services in courts and tribunals**

The use of language services in courts and tribunals cover face-to-face language services provided to HM Courts & Tribunals Service (HMCTS) and the National Offender Management Service (NOMS). These services are supplied under a contract with Capita Translation and Interpreting (TI); formerly known as Applied Language Solutions (ALS).

## **Gender Recognition Certificates**

The Gender Recognition Panel was established by the Gender Recognition Act 2004, which enables transsexual people to change their legal gender and gain the rights and responsibilities of their acquired gender. All applications are determined by the Panel and successful applicants receive a Gender Recognition Certificate.

## **Coroners**

Around half of all registered deaths in England and Wales are reported to coroners in accordance with the Coroners and Justice Act 2009. Coroners complete an annual census which provides information on post-mortem examinations and inquests held, and verdicts returned at inquests.

## Background to the Court and Administrative System

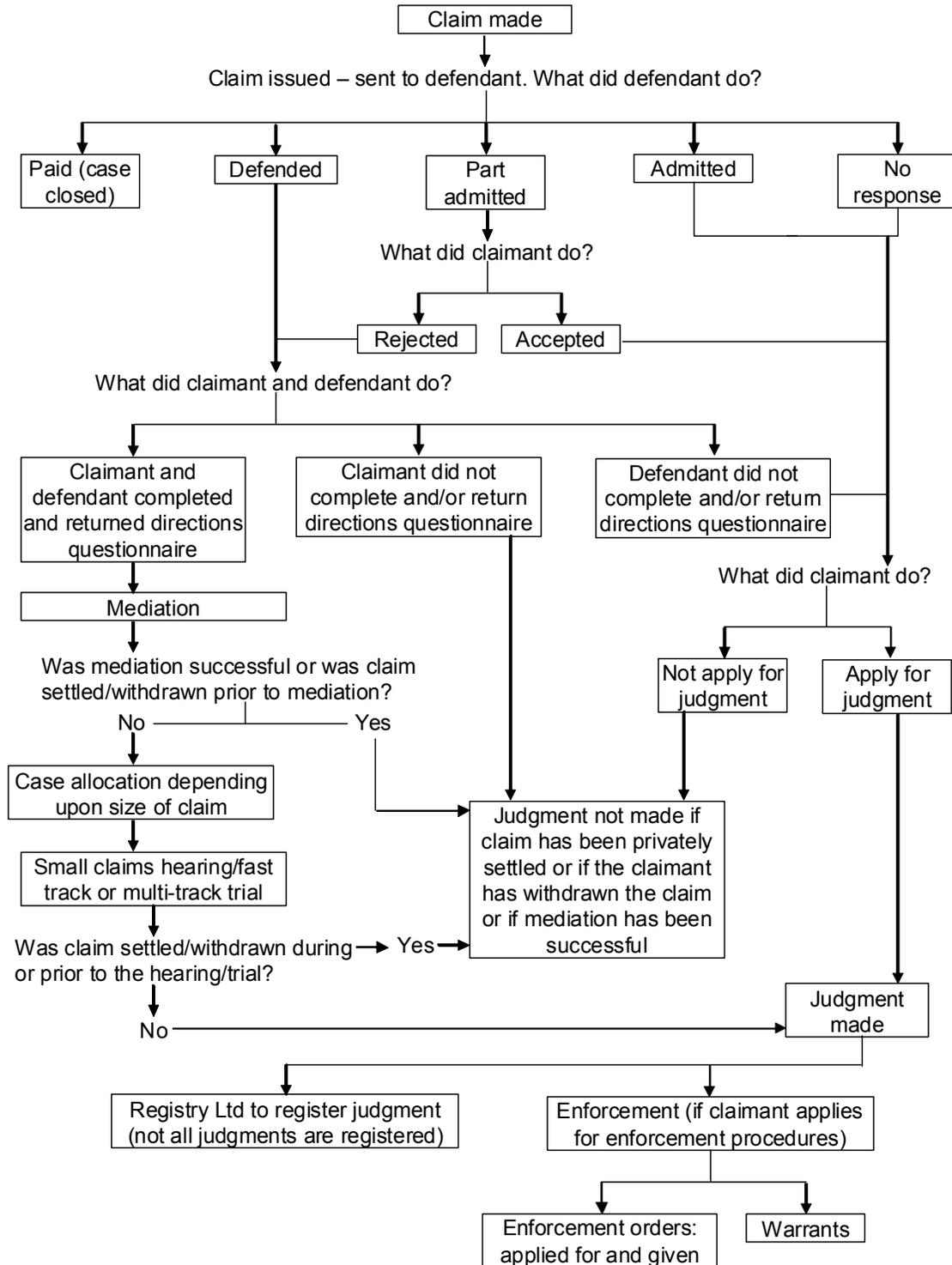
There are a number of ways individuals and organisations enter the Court and Tribunal System. These vary depending on the type of court they are engaging with. Details can be found in the sections below.

### **Civil (excluding family)**

Civil cases are those that do not involve family matters or failure to pay council tax. Civil cases are mainly dealt with by county courts and typically relate to debt (these generally being issued for a specified amount of money), the repossession of property, personal injury (these generally being issued for an unspecified amount of money), the return of goods and insolvency. Particularly important, complex or substantial cases are instead dealt with in the High Court. All county courts are assigned at least one District Judge, and some at least one Circuit Judge.

Figure 2 on the next page provides a schematic summary of the process that specified money cases can go through. Specified money claims constitute the most common kind of civil case, accounting for nearly two-thirds of all civil claims. Not every case will go through every stage.

**Figure 2: A simplified description of the main court processes for specified money cases**

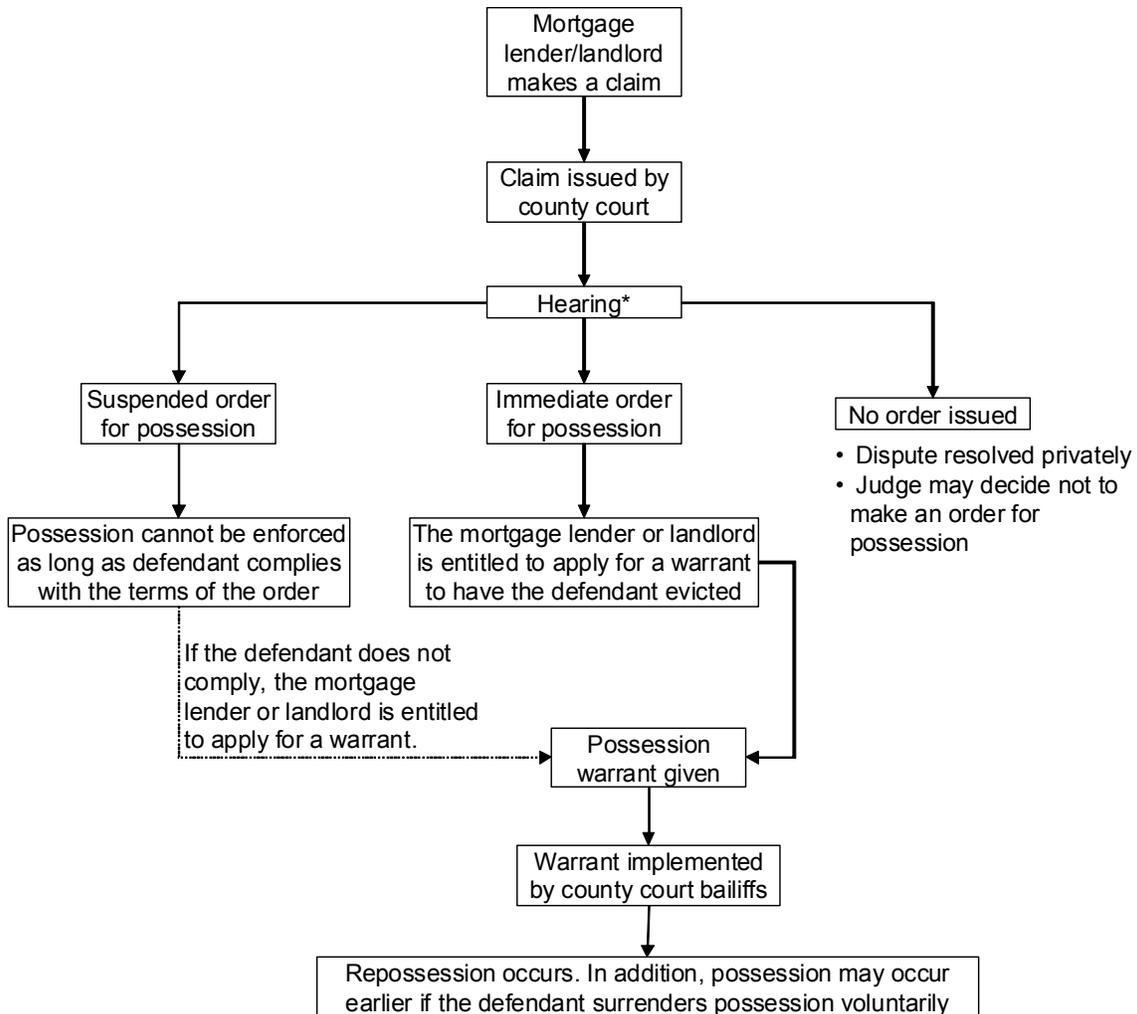


The process for unspecified claims is very similar, at least at the level of detail presented here. The primary difference is that the defendant has an additional option available to them when first being notified of the claim: as well as paying it,

defending it, part or totally admitting it, or giving no response, they can also agree responsibility for the claim but not agree the amount of compensation owed.

Figure 3 a similar summary of the process that possession cases can go through.

**Figure 3: A simplified description of the main court processes for possession cases**

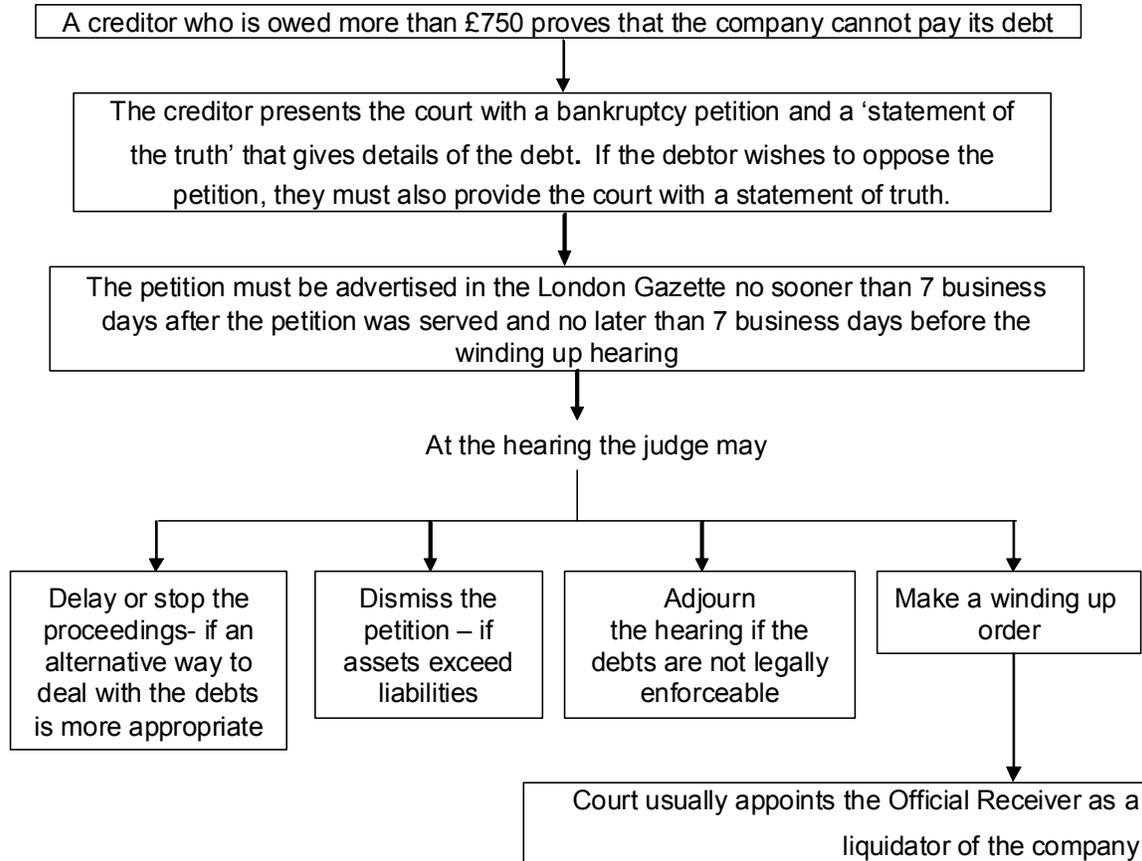


\* In cases involving a fixed-term tenancy, a landlord possession may not require a hearing under the accelerated procedure

The process for return of goods claims is very similar to possession cases except that the item being disputed is ownership of goods rather than possession of a property.

Figure 4 on the next page provides a similar summary of the process that company winding-up cases can go through.

**Figure 4: A simplified description of the main court processes for company winding-up cases**



The process for creditor's petitions cases is very similar except that the petition need not be advertised in the London Gazette.

The process for debtor's petitions is very similar to creditor's petitions except that they are initiated by the debtor and the debtor must present a 'statement of affairs' to the court that shows that they are unable to pay their debts along with the bankruptcy petition.

### Claims issued

The process of taking a person(s) or company to court regarding a civil (non-family) matter begins with a person (the claimant) either completing a claim form and taking it to a court or completing a claim form online.

In addition, claimants who issue a large number of claims each year, such as banks, credit card and store card issuers, utility companies and debt recovery companies, can file them to the Claim Production Centre (CPC) . This is a centralized claim processing service that is intended to facilitate the removal of

repetitive staff-intensive work from local courts to a single, more straight forward service. After processing the claims, the relevant information is sent electronically to the court(s) selected by the claimant.

### **Case progression, hearings and judgments**

Whether the claim is issued online or through the county courts, a copy of the claim form along with a response pack 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).

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:

- small claim track. This track is generally for cases with a claim value of up to £5,000. These require less preparation by the parties involved than the more complex cases allocated to the fast or multi track. The hearings are designed to be accessible to people who do not have representation by a solicitor or counsel, and are dealt with in about an hour.
- fast track. This track is generally for cases with a claim value of between £5,000 and not more than £25,000, with issues not complex enough to merit more than a one day trial.
- multi track. This track is generally for cases with a claim value exceeding £25,000 with more complex issues. They generally last more than one day at trial.

Defended cases which are not settled or withdrawn generally result in a small claim hearing or trial.

### **Enforcement**

There are various methods of enforcing a judgment through the county courts. The most common method of enforcing a monetary judgment is the warrant of execution against a debtor's goods. This is where, unless the amount owed is paid, items owned by the debtor can be recovered by a bailiff acting on behalf of the court and sold.

To enforce non-monetary decisions made by the county courts, various types of warrants can be issued:

- warrants of possession are issued to repossess property;
- warrants of delivery are issued to obtain the return of particular goods or items; or,

- warrants of committal enforce an order for which the penalty for failure to comply is imprisonment by authorising the bailiff to arrest and deliver the person to prison or the court.

Alternatively, various types of court orders can be obtained. Attachment of earnings orders enable payment through the debtor's employer. Fourth party debt orders enable payment by freezing and then seizing money owed by a fourth party to the debtor. Charging orders obtain security for the payment against the debtor's assets. This may be followed by an order for sale which forces the sale of these assets.

In certain circumstances, a debtor may apply to a county court to combine debts with a total not exceeding £5,000 into a single administration order, which allows a District Judge to make an order for the debtor to make regular payments to the court. The court will then distribute the money to the creditors

To assist in determining which of the above is the most appropriate method of enforcing a judgement, creditors can apply for an order to obtain information from the judgment debtors. This requires debtors to provide details of their means.

### **Mortgage and Landlord Repossessions**

In England and Wales the process of possessing a property by a landlord or a mortgage lender is carried out by the county courts after all other avenues have been exhausted. This section describes the court process of possessing a property in detail and Figure 3 provides a summary.

To obtain a court order granting the entitlement to take possession of a property, a claimant – a mortgage lender or a landlord – must first make a claim which is then issued by a county court. Generally, the issuing process involves the arrangement of an initial hearing before a judge. At such a hearing, a judge may:

- grant an order for outright possession of the property at a date decided by the judge;
- grant a suspended order for possession of the property; or,
- grant no order for possession (for example, after deciding the claimant has no legal right to take possession of the property).

The suspended order for possession of the property usually requires the defendant to pay the latest mortgage or rent instalment, plus some of the arrears that have built up, within a certain defined period. As long as the defendant complies with the terms of the suspension, the possession order cannot be enforced.

More than one order may be granted during the course of an individual case. For example, it is possible that after an initial possession order is granted, the

defendant may make an application to the court for the order to be varied or set aside, which could then result in another order being made.

A granted order entitles the claimant to apply for a warrant to have the defendant evicted by bailiffs, so taking possession of the property. Only then does repossession occur. Actual repossession figures (including voluntary repossessions such as where the mortgagee or tenant hands back the keys) are only available for mortgages and are compiled by the [Financial Services Authority](#) (FSA) and the [Council of Mortgage Lenders](#) (CML).

Throughout the court process, even where a warrant for possession is issued, the claimant and defendant can still negotiate a compromise arrangement to prevent eviction.

### **Changes to the definition of the number of possession orders, warrants and repossessions made used in the possessions bulletin**

Prior to the 2009 April to June bulletin, the number of possession orders was reported. After that point, the measure was replaced by the number of possession claims that lead to an order replaced the straight count of possession orders. This measure was deemed to be more accurate, removing the double-counting of instances where a single claim leads to more than one order.

A statistical notice announcing the change following the consultation of users published on 4 August 2009:

[www.justice.gov.uk/downloads/publications/statistics-and-data/civiljustice/mortgage-landlord-possession-stats-notice.pdf](http://www.justice.gov.uk/downloads/publications/statistics-and-data/civiljustice/mortgage-landlord-possession-stats-notice.pdf)

Changes in the way data was collected between 2007 and 2009 made the issue of double-counting particularly relevant. These issues regarding data collection have been resolved, making it feasible to return to measuring the count of total number of orders, warrants and repossessions.

From the 2012 July to September bulletin, the number of claims leading to warrants and to repossessions by county court bailiffs was added to the publication.

In the 2013 January to March bulletin the intention was announced to present the total number of orders, warrants and repossessions by county court bailiffs instead the number of claims that led to order, warrants and repossessions and feedback was requested regarding the changes. Feedback did not show opposition to the proposals.

From the 2013 April to June bulletin we have returned to presenting the total number of orders as well as the total number of warrants and repossessions by county court bailiffs. We believe this is simpler to understand and is a more accurate reflection of the court caseload. We also believe that the actual number of cases where double-counting occurs form a relatively small proportion of

recent cases, and does not justify the additional complexity of the measure. Readers who are interested in the historical time-line should note that the raw number of orders, warrants and repossessions is likely to be inflated by double-counting especially between 2007 and 2009 and should treat those figures with care.

### **Other sources of possession statistics**

The numbers of actual repossessions (including where there is no action by county court bailiffs) are produced by the Financial Services Authority (FSA) and the Council of Mortgage Lenders (CML). The statistics shown for "properties taken into possession" are published figures from the CML, which is an industry body representing around 94 % of the UK residential lending industry. It should be noted that:

- The Ministry statistics on court actions cover England and Wales only. CML statistics cover the whole of the UK.
- CML statistics on actual possessions include properties surrendered voluntarily.
- Given the time lags involved, some of the court orders for the possessions shown by CML may have been granted in earlier time periods.
- Mortgage possessions counted in the CML statistics mainly relate to the non-repayment of loans which are secured as a "first charge" against the property. The large majority of "second charge" lending (any loan secured on a property where a separate first charge loan already exists) falls outside the CML's membership, therefore any resulting repossessions will not be counted in their figures.

More details about the differences between mortgage possession data published by the Ministry (in this bulletin), the CML and the Financial Services Authority can be viewed at the link:

[www.justice.gov.uk/downloads/publications/statistics-and-data/civiljustice/mortgage-lending-stats-note.pdf](http://www.justice.gov.uk/downloads/publications/statistics-and-data/civiljustice/mortgage-lending-stats-note.pdf)

A comprehensive review of statistics relating to the housing market has been published by the Office for National Statistics.

## **Family related court cases**

Family law is the area of law that deals with:

- Public law – local authority intervention to protect children;
- Private law – parental disputes concerning the upbringing of children;
- Dissolution of marriages or civil partnerships;
- Financial Remedy (formerly know as ‘ancillary relief’) – financial provisions after divorce or relationship breakdown;
- Domestic violence remedies;
- Forced marriage protection orders;
- Adoption;
- Court of Protection, and
- Office of the Public Guardian

All family cases are dealt with at Family Proceedings Courts (which are part of the magistrates’ courts), 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 cases affecting children are dealt with under the Children Act 1989 in all three levels of courts.

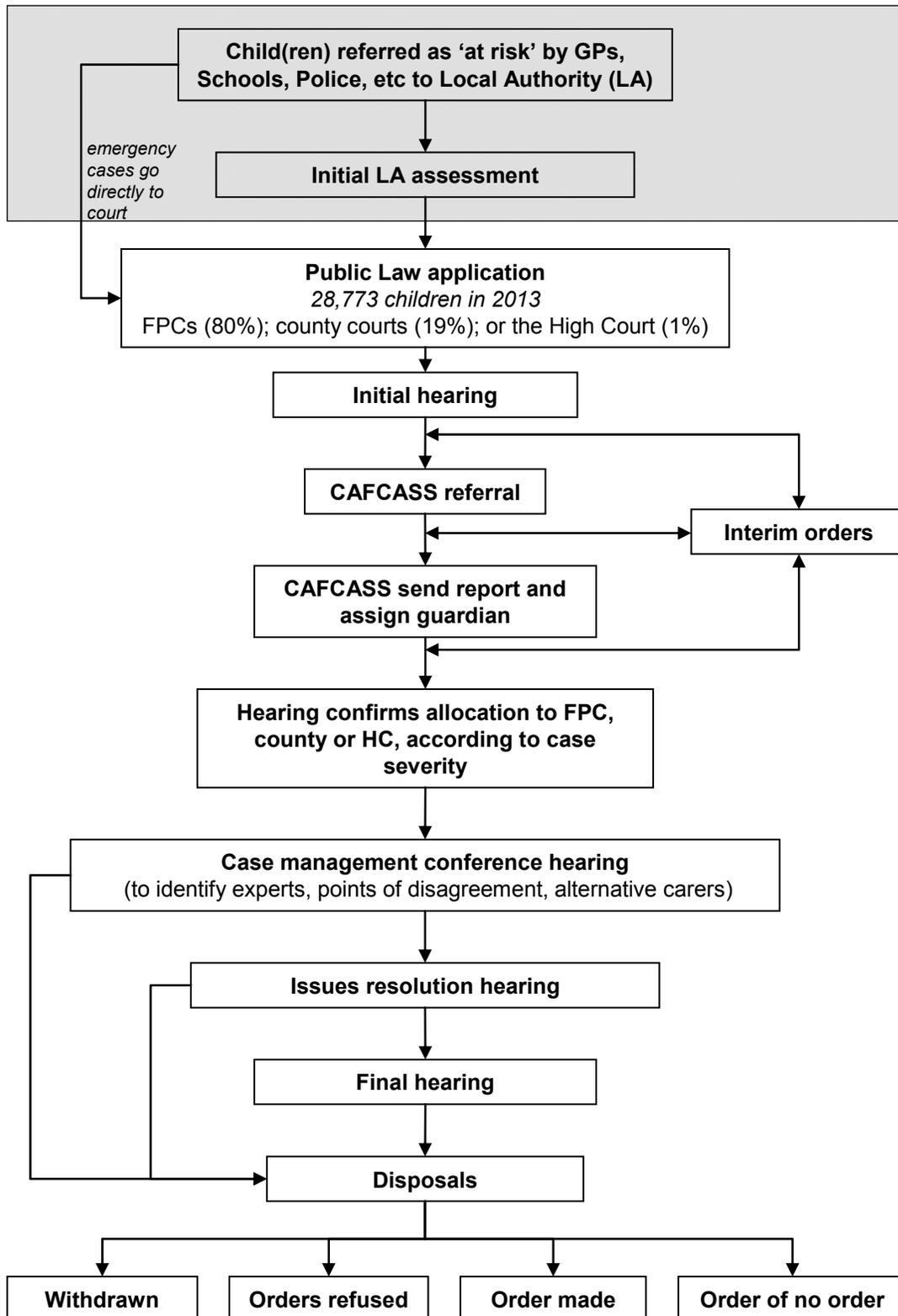
### **Public Law**

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) to protect the child and ensure they get the care they need. In these proceedings, the child is automatically a party and is represented by a Children's Guardian appointed by the Children and Family Court Advisory and Support Service (Cafcass). The Children's Guardian is an independent person who is there to promote the child's welfare and ensure that the arrangements made for the child are in his or her best interests.

A range of different orders can be applied for. The main types of order are a care or supervision order which determines whether the child should be looked after or supervised by the local authority, and an emergency protection order which allows an individual or local authority to take a child away from a place where they are in immediate danger to a place of safety (see the Children’s Act csv file and Glossary for more details). The majority of Public law applications are for

care orders (69% in 2012). Figure 5 shows the main court processes for Children Act Public Law cases.

**Figure 5: The main court processes for Children Act Public Law cases**



## **Timeliness of Public Law Care and Supervision applications**

In the interests of the child, courts are concerned to minimise the length of time it takes for a case to be resolved. However a large number of factors can affect how long the case takes, such as the type of order applied for, the number of parties involved and how complex the child's situation is. In general there is a wide spread of case durations with many straight-forward cases being completed fairly quickly, more complicated cases taking longer and a few very complex ones taking a long time.

The care and supervision timeliness measure presented in this bulletin considers cases that began with a care or supervision application and measure the time from the application until the first of seven disposal types for each individual child. The seven valid disposal types for the purposes of this measure are a care order, a supervision order, a residence order, a special guardianship order, the application withdrawn, an order refused or an order of no order.

The bulletin presents the average, or 'mean', case duration, which can be quite heavily influenced by a few very long durations. We therefore also present the median timeliness which is the length of time within which a definitive disposal was reached for half of all children involved.

## **Mediation**

Mediation can be particularly beneficial where there will be a continuing relationship following dispute resolution – such as in family cases. Family mediation can help reduce hostility and improve chances of long-term co-operation between parents and couples, for example in agreeing arrangements for their children and financial matters.

There is currently an expectation, that before applying to the Family Court, people will need to prove they've considered mediation first. They can do this:

- by showing they are exempt from having to consider mediation, for example, if domestic violence is involved; or
- by proving to the judge that they have been to a 'mediation information and assessment meeting' (MIAM) with a family mediator but that mediation is not suitable for them.

The Children & Families Bill which is progressing through Parliament seeks to make this a legal requirement in Spring 2014.

## **Legal Aid, Sentencing and Punishment of Offenders Act 2012**

For details see the section entitled '**Legislation coming into effect in the reporting period**'. This created the Legal Aid Agency, an executive agency of the Ministry of Justice, on the 1st April 2013, following the abolition of the Legal

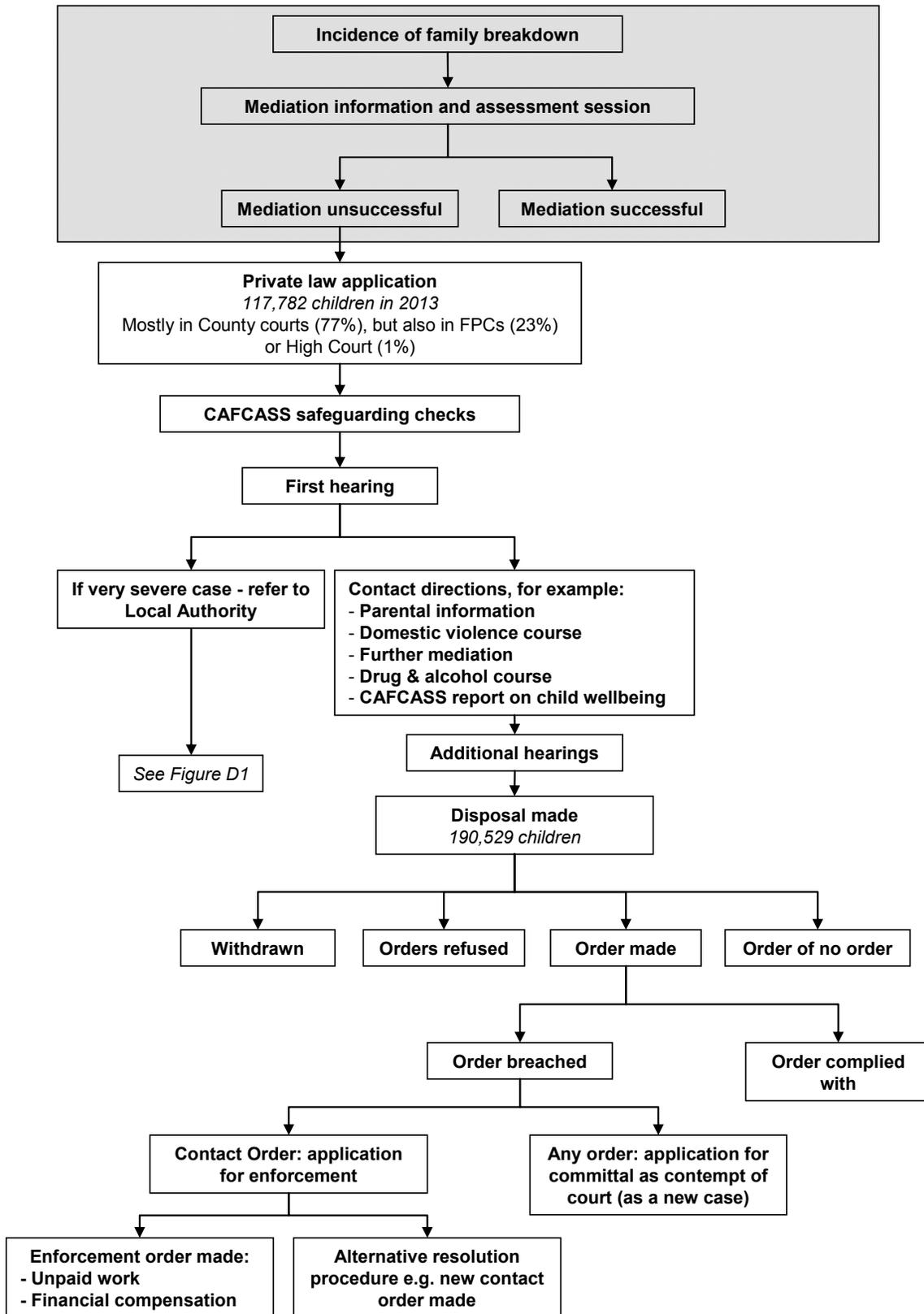
Services Commission. The Act removes some types of case from the scope of legal aid funding, and other cases will only qualify when they meet certain criteria. Funding is no longer available for private family law, such as divorce and custody battles. Family law cases involving domestic violence, forced marriage or child abduction will continue to receive funding.

The impact of these changes can be seen in Table 2.4, although cases starting since 1st April may not have reached a conclusion yet.

### **Private Law**

Private law cases are those court cases between two or more private individuals who are trying to resolve a dispute. This is generally where parents have split up and there is a disagreement about contact with the children or with which parent they should live. A range of different types of court order can be applied for, including “Section 8” orders (referring to the relevant section of the Children Act 1989), parental responsibility, financial applications and special guardianship orders. The vast majority of Private law applications (96%) are for Section 8 orders, which include for example, a residence order which settles where the child should live and a contact order which specifies the conditions under which the divorced or separated parents may spend time with a child. Figure 6 shows the main court processes for Children Act Private Law cases.

**Figure 6: The main court processes for Children Act Private Law cases**



## Disposal of Public and Private Law applications

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

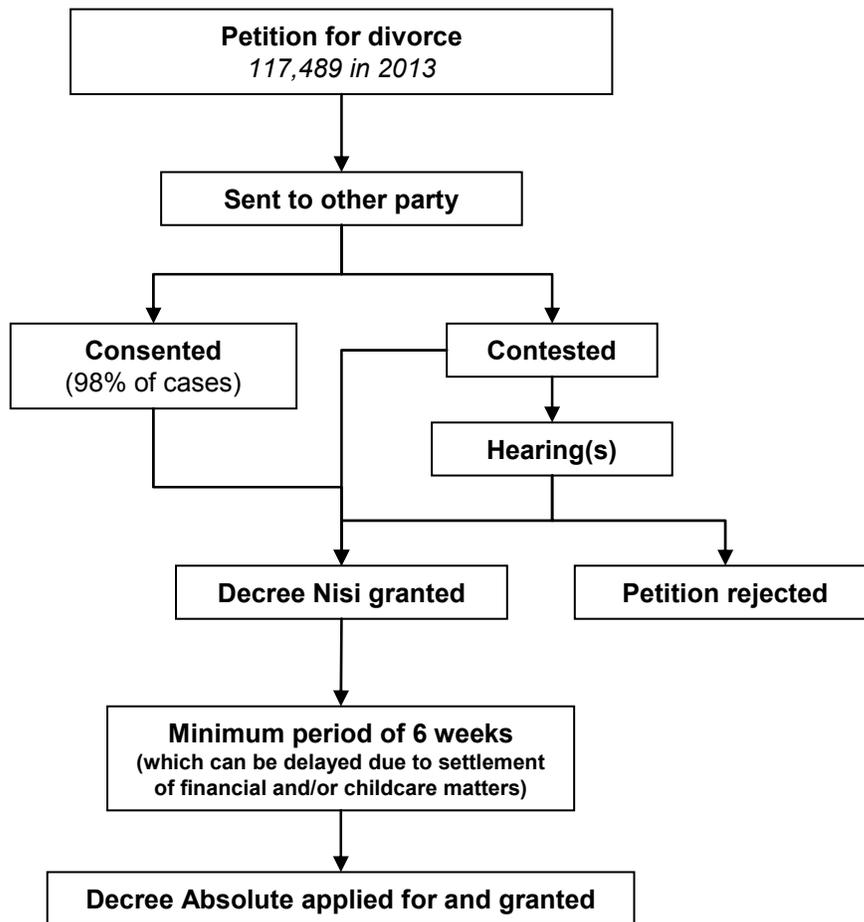
- withdrawn applications – applications can only be withdrawn by order of the court
- order refused – in public law proceedings an order is refused if the grounds are not proved and the court has dismissed the application. In private law proceedings the court may refuse to make an order or make an order 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
- full order made – the type of order made may not be the same as the type of application that was originally applied for. An order is made in favour of one of the parties (Local Authority, parent or Other Guardian) however this is not recorded on the central Familyman database.

If a contact order is breached, a party may apply to the court for an enforcement order to be made. Since December 2008 contact orders routinely contain a warning notice stating the consequences if a party fails to keep the requirements of the order. For earlier orders, the party seeking enforcement must first apply to the court to have a warning notice attached to the order, and the relevant party informed that a notice has been attached. The enforcement order generally requires the person who has breached the order to undertake unpaid work, although if a party has suffered financial loss as a result of the breach they may apply for financial compensation. If other types of order are breached it is possible for a party to apply for committal, so the breach is dealt with as contempt of court; however, this is very rare.

### **Matrimonial cases**

There are two ways to legally end a marriage or a civil partnership. An individual can apply for a divorce which will give them a decree absolute, ending a valid marriage or civil partnership – this occurs in the vast majority of cases. Alternatively, an individual can apply for a decree of nullity, which declares that the marriage or civil partnership itself is void, specifically no valid marriage or civil partnership ever existed; or voidable, specifically the marriage or civil partnership was valid unless annulled. No application can be made for divorce within the first year of a marriage or a civil partnership. An alternative to divorce is a decree of judicial separation or a decree of separation of civil partners. Figure 7 shows the main court processes for divorce or dissolution cases.

**Figure 7: The main court processes for divorce cases**



### **Financial remedy (formerly ‘ancillary relief’) – financial disputes post-divorce/ separation**

During a divorce, a marriage annulment, or a judicial separation, or the dissolution of a civil partnership there may still be a need for the court to settle disputes over money or property. The court can make a financial remedy order, formerly known as ‘ancillary relief’. These orders include dealing with the arrangements for the sale or transfer of property, maintenance payments, a lump sum payment or the sharing of a pension. Orders for financial provision other than for ancillary relief 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.

If an order is breached several options are open to the aggrieved party to seek enforcement of the order. The breach may be dealt with as contempt of court, which can result in a fine or imprisonment. More commonly, for money orders, proceedings can be instituted in a civil court where a variety of remedies such as attachment of earnings may be available. It is also possible for a party to apply to a magistrates' court to register a maintenance order that is not being paid, where again a variety of methods can be used to enforce the order. However if arrears of more than one year are owed, the person seeking payment must first get the court's permission to make an enforcement application.

### **Domestic violence**

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. Figure 8 shows the main court processes for domestic violence cases.

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 (for example, parents, grandparents, in-laws, brothers, sisters), and those who have agreed to marry one another.

Two types of order can be granted:

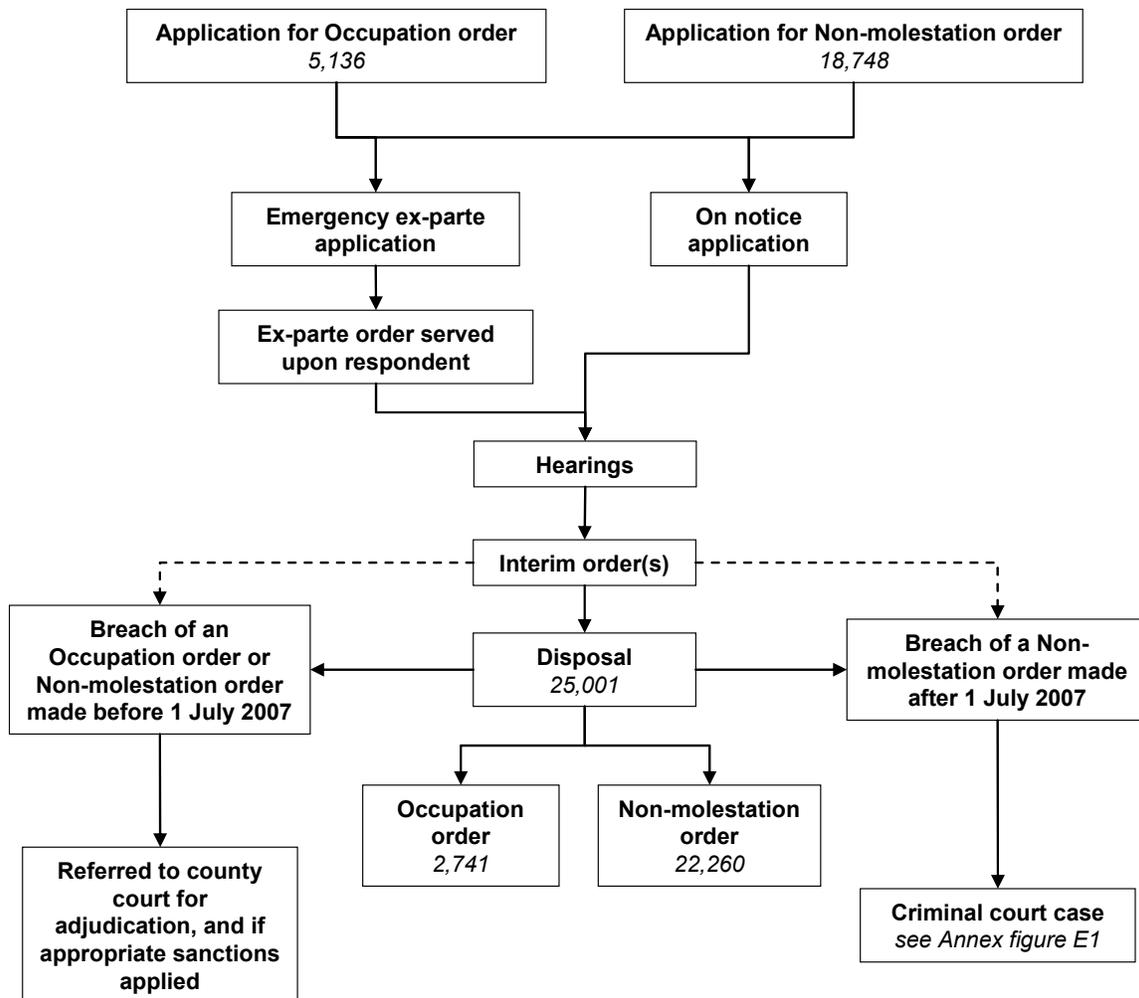
- a non-molestation order, which can either prohibit particular behaviour or general molestation by someone who has previously been violent towards the applicant and/or any relevant children; and,
- an occupation order, which can define or regulate rights of occupation of the home by the parties involved.

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 includes 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.

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. If there is no power of arrest attached to the order, and the order is breached, this is dealt with as contempt of court. The court may then impose a fine or make a committal order

whereby the person who breached the order is imprisoned or put on remand until the next hearing.

**Figure 8: The main court processes for domestic violence cases with 2013 figures**



### Forced Marriage Protection Orders

Applications for a Forced Marriage Protection Order can be made at 15 designated county courts. These courts, as well as the High Court, are able 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.

### Legal representation and its relationship with timeliness

Different types of cases tend to take different lengths of time to complete – in general public law cases for children take longer than private law cases and divorce cases tend to be quite lengthy due to set time limits, whereas domestic

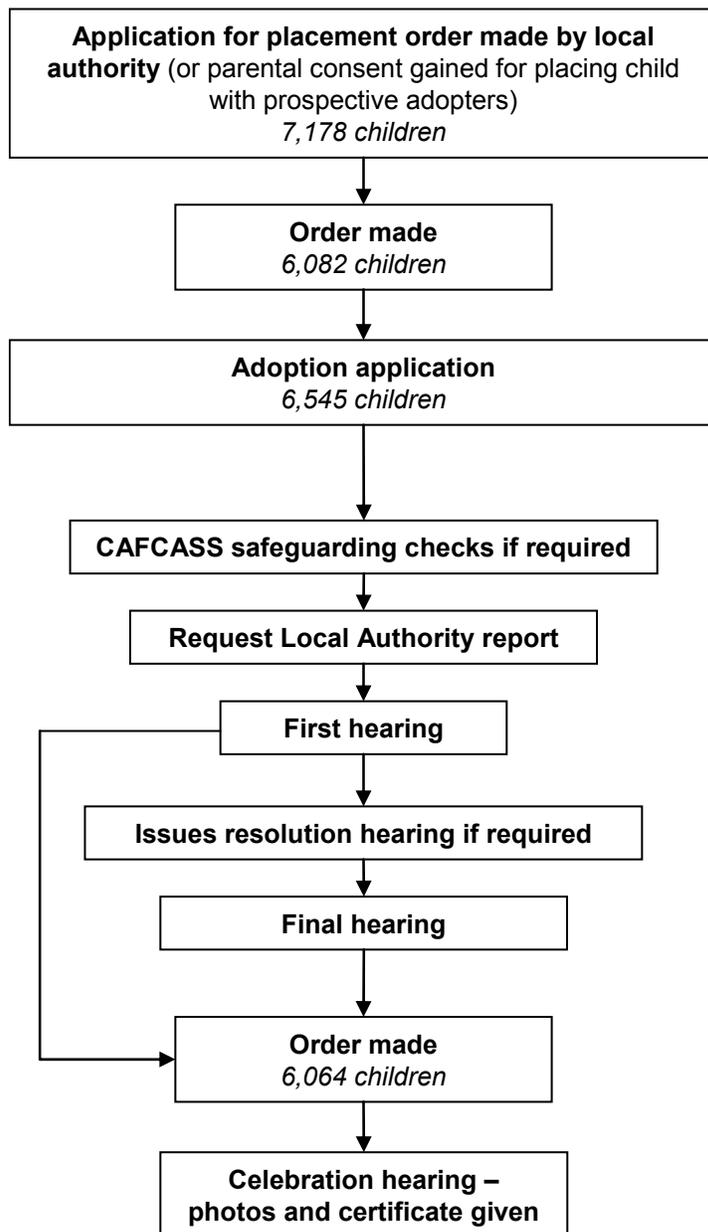
violence cases are usually completed in a fairly short time due to the nature of them. Another factor that may influence how long a case takes is whether one or both parties had a legal representative or alternatively represented themselves. This may also be affected by whether the parties consent to the application or are contesting it which in turn may reflect the complexity of the case.

## **Adoptions**

Prior to making an adoption application, a placement order is generally made to place a child with prospective adopters. If the placement is being made by an adoption agency, by a High Court order, or by the child's parent, the placement period is 10 weeks before an adoption application can be made. For a step-parent the placement duration is six months, while for local authority foster parents it is usually one year. In other cases the courts generally require the child to have been living with the prospective adopters for three out of the preceding five years. An application for adoption can be made either to a county court or a family proceedings court for the area in which the child is living. If the child is not in this country at the time of the application, it must be made to the High Court.

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 the conclusion of an 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 figure below shows the main court processes for adoption cases.

**Figure 9: The main court processes for adoption cases with 2013 figures**



### **Family Justice Review**

The Family Justice Review panel was appointed to review the whole of the family justice system in England and Wales, looking at all aspects of the system from court decisions on taking children into care, to disputes over contact with children when parents divorce. It was commissioned by the Ministry of Justice, the Department for Education and the Welsh Government.

The panel's final report was published on 3 November 2011. It made a number of recommendations to improve public and private law and looked at how the agencies within the family justice system could work together more effectively to

improve the experience for children and families. The report can be found here:

[www.justice.gov.uk/publications/policy/moj/2011/family-justice-review-final](http://www.justice.gov.uk/publications/policy/moj/2011/family-justice-review-final)

The government's response to the review was published on 6 February 2012 and accepted many of the recommendations made in the review. The response can be found here:

[www.justice.gov.uk/publications/policy/moj/family-justice-review-response](http://www.justice.gov.uk/publications/policy/moj/family-justice-review-response)

In April 2012 the government established a Family Justice Board to oversee implementation of changes in the system, focussing on improving performance and ensuring different parts of the system work efficiently together.

## **The Court of Protection and the Public Guardian**

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 new public bodies to support the statutory framework, both of which are designed around the needs of those who lack capacity.

- The Court of Protection
- The Public Guardian, supported by the Office of the Public Guardian (OPG)

### **The Court of Protection**

The Court of Protection 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 Court of Protection 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 cases 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 % 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.

### **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 and 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.

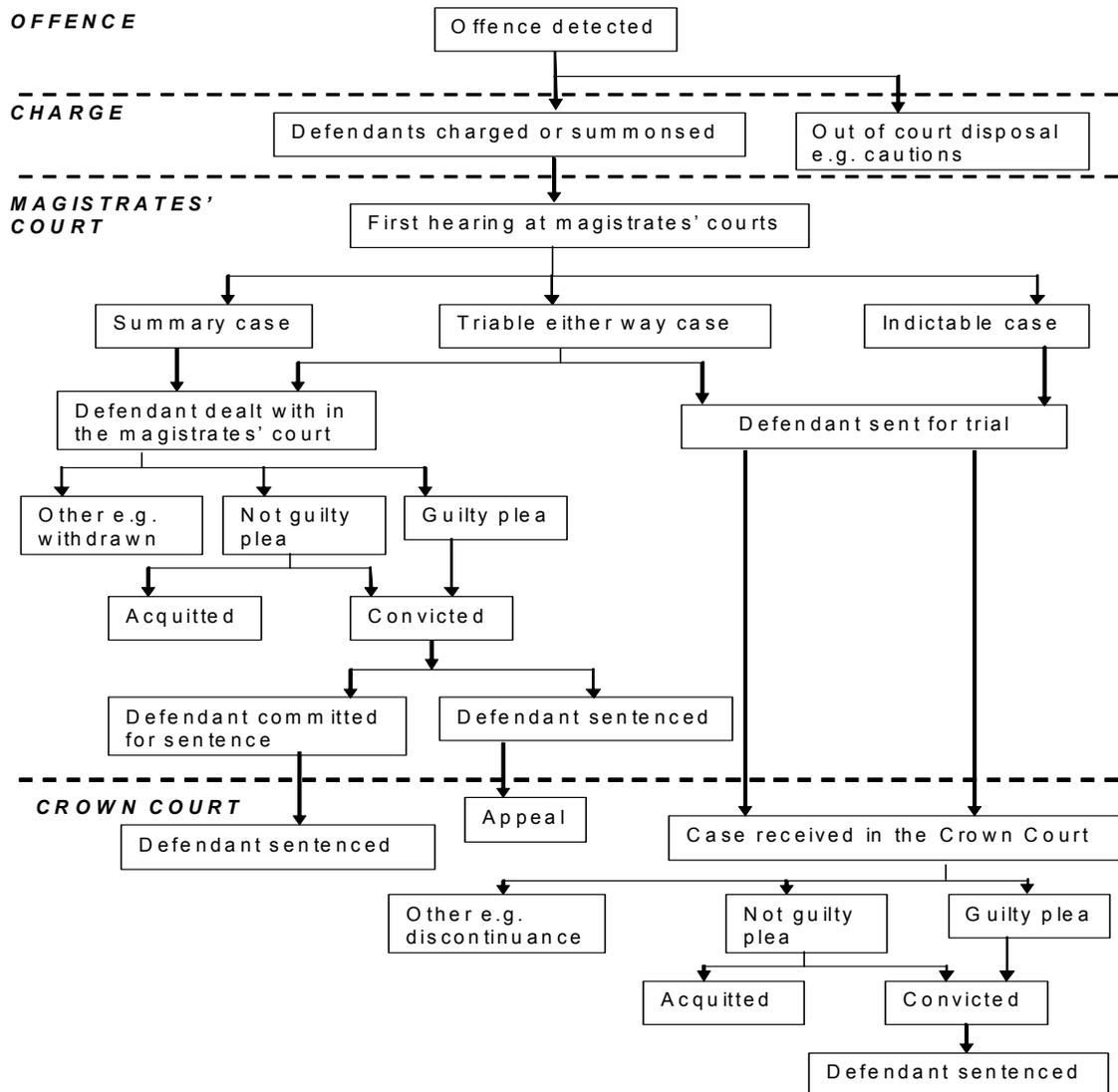
## **Magistrates' and Crown Court**

### **Magistrates' and Crown Court**

Much of the activity in the criminal justice system starts with the police, when a crime is committed, reported and detected. Some of these crimes are dealt with by means of out of court disposals (such as penalty notices, cautions and warnings) whilst others are dealt with through the criminal court system.

The flow chart presented below provides an overview of the main court processes for criminal cases. The police will formally charge or lay information against a defendant if there is sufficient evidence and none of the out of court disposals are appropriate. Virtually all criminal court cases start in a magistrates' court with the law requiring the defendant to be brought before the court as soon as possible.

**Figure 10: A description of the main court processes for criminal cases**



**The magistrates' courts**

The magistrates' court is the first tier of criminal courts in England and Wales and is presided over by three 'Justices of the Peace' (known as lay magistrates) or by a district judge who dispenses summary justice. Justices of the Peace 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 also given legal and procedural advice by qualified clerks. District judges on the other hand are legally qualified, paid, full-time professionals and are usually based in the larger cities. They normally hear the more complex or sensitive cases.

A criminal case can start and finish in a magistrates' court or start in a magistrates' court and finish in a higher court, normally the Crown Court. The

magistrates' courts hear the less serious summary cases such as common assault or motoring offences as well as some 'triable either way' cases such as theft.

Defendants are given the opportunity to enter their plea at the first hearing. If the defendant enters a not guilty or no plea, the case is heard summarily in a trial hearing. If a guilty plea is accepted the defendant is convicted and sentenced, and the case is completed.

The magistrates' courts can also send cases for trial or sentencing to the Crown Court. These cases are considered to have completed in the magistrates' court as no further action is required by the magistrates', however the cases have not concluded until the defendant is acquitted or sentenced at the Crown Court. The magistrates' courts also deal with breaches, where the defendant breached the conditions of an order that was previously imposed by a court.

### **The Crown Court**

The Crown Court is a single court and sits in approximately 77 different locations across England and Wales. The Crown Court carries out three principal types of activity: jury trials, the sentencing of those who are convicted in either the Crown Court or magistrates' courts, and appeals from decisions of magistrates.

Triable-either-way cases are sent to the Crown Court for trial when the magistrates' court decides that the circumstances of the case are sufficiently serious that it should be dealt with in the Crown Court or if the defendant decides to be tried at the Crown Court. Serious indictable only cases such as murder or serious sexual offences must be sent to Crown Court for trial as they can not be heard summarily by the magistrates' courts.

The Crown Court also deals with cases 'committed for sentence'. These cases are transferred to the Crown Court for sentencing after a defendant has been convicted (found guilty) in a magistrates' court. This would occur where a magistrate believes that their sentencing powers are insufficient. The Crown Court also deals with appeals against a conviction or sentence given by a magistrates' court.

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.

- 1 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

Defendants tried in the Crown Court are provided the opportunity to plea at the Plea and Case Management hearing. Similar to cases heard summarily, a defendant who enters an accepted guilty plea is sentenced, whilst those who enter a not guilty plea are scheduled (listed) for a trial hearing. A defendant can enter a guilty plea at any point in the case.

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).

### **Effectiveness of trials**

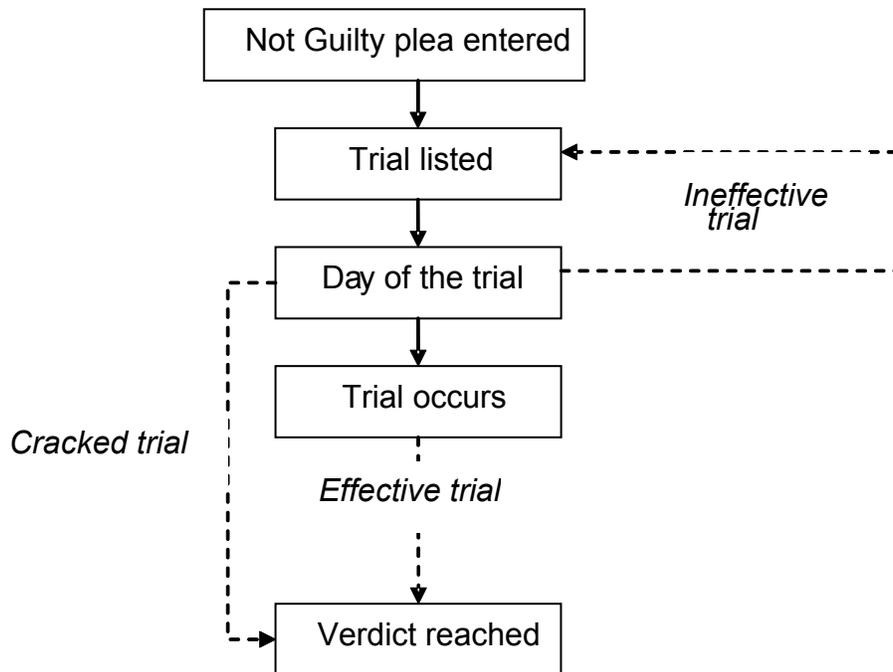
A trial in the magistrates' court or Crown Court is a hearing at which the prosecution produces evidence to prove the case against the defendant. Trials in the magistrates' court are heard by two or three magistrates or by one district judge while trials in the Crown Court are typically heard before a judge and jury. The length of a trial could be anything from less than a day to several months or longer depending on the complexity of a case and the amount of evidence heard. Trials conclude with a verdict of an acquittal for those found not guilty or a conviction for those found guilty. For those found guilty the case is completed once the defendant has been sentenced.

In the magistrates' courts, a trial which commences on a scheduled date and reaches a conclusion is recorded as an effective trial. For the Crown Court, a trial is effective once a jury has been sworn in, regardless of whether they go on to reach a verdict.

An ineffective trial does not commence on the due date and requires a rescheduling. This could be due to the absence of a defendant or a witness, the case not being ready or due to administrative reasons at the court centre.

In contrast, a cracked trial does not commence on the scheduled date and the trial is not rescheduled, as a trial is no longer required. Cracked trials are usually the result of an acceptable plea being entered by the defendant on the day or the case ending as the prosecution decides not to proceed (offers no evidence) against the defendant.

**Figure 11: A description of the process for trial hearings in criminal court cases**



## **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 final court of appeal in the United Kingdom
- 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 cases 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 cases including orders involving children.

### **Judicial Committee of the Privy Council**

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 cases only, and gives its advice to the Sultan.

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

- appeals from the Channel Islands and Isle of Man, which are analogous to Commonwealth appeals and are dealt with under the same rules;
- appeals under the Veterinary Surgeons Act 1966 from decisions of the Disciplinary Committee of the Royal College of Veterinary Surgeons;
- 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.

## **The UK Supreme Court**

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 cases.

## **The Court of Appeal**

The Court of Appeal is divided into two Divisions, criminal and civil. The Criminal Division, presided over by the Lord Chief Justice and the Vice-President of the Criminal Division, hears appeals in criminal cases from the Crown Court. 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.

### High Court - Chancery and Queen's Bench Divisions

The High Court deals with higher level civil disputes within three divisions

- the Queen's Bench Division
- the Chancery Division
- the Family Division

The work of the Queen's Bench Division, not including the specialist courts, consists mainly of claims for damages in respect of: personal injury, negligence, breach of contract, libel and slander (defamation), non-payment of a debt, and possession of land or property. For a general explanation of the work and practice of the Queen's Bench Division with particular regard to proceedings started in the Central Office.

The work of the Queen's Bench Division is (with certain exceptions) governed by the Civil Procedure Rules (CPR). The Divisional Court, the Admiralty Court, Commercial Court and Technology and Construction Court are all part of the Queen's Bench Division. However, each does specialised work requiring a distinct procedure that to some extent modifies the CPR. For that reason each publishes its own Guide or Practice Direction, to which reference should be made by parties wishing to proceed in the specialist courts.

The Chancery Division is a part of the High Court of Justice. The areas of work that it deals with are: business and property related disputes, competition and general Chancery Claims. The Chancery Division also deals with claims relating to: patents, intellectual Property, companies, insolvency, trust, probate and appeals to the High Court, Chancery Division from the lower court.

The Family Division of the High Court has Jurisdiction to deal with all matrimonial cases, the Children Act 1989 and the Child Abduction and Custody Act 1985. It also deals with cases relating to Part IV Family Law Act 1996(Family Homes and Domestic Violence), Adoption Section Inheritance Act 1975 applications and Probate and Court of Protection work.

The Court of Appeal also deals with **Judicial Reviews (JRs)**. A JR is a process by which individuals, businesses and other affected parties can challenge the lawfulness of decisions or actions of the Executive, including those of Ministers, local authorities, other public bodies and those exercising public functions. It is a largely judge-developed procedure and can be characterised as the rule of law in action, providing a key mechanism for individuals to hold the Executive to account. It is, however, intended to operate quickly and proportionately. Certain protections are in principle provided against spurious claims: only those with sufficient interest are able to bring a case and they must first obtain permission for their case to be heard.

There are three main grounds on which a decision or action may be challenged:

1. **illegality**: for example, it was not taken in accordance with the law that regulates it or goes beyond the powers of the body;
2. **irrationality**: for example, that it was not taken reasonably, or that no reasonable person could have taken it;
3. **procedural irregularity**: for example, a failure to consult properly or to act in accordance with natural justice or with the underpinning procedural rules

JR is often described as a remedy of last resort: the courts will normally expect parties to use other avenues, including a right of appeal, where they are available.

### **Judicial Review applications**

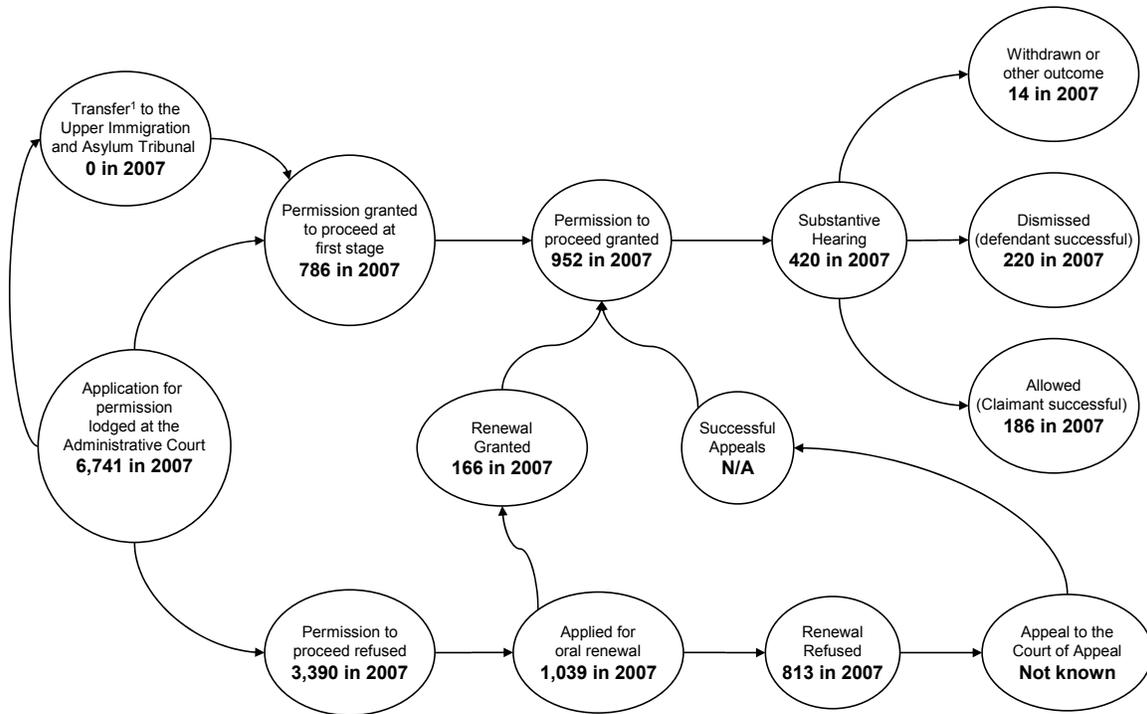
Before bringing JR proceedings, parties should normally adhere to the Pre-Action Protocol, which encourages them to seek to settle their differences without reference to the Court. JR proceedings are commenced by filing a claim form with the Court, setting out the matter the claimant wants the Court to decide and the remedy sought. The claim must be submitted promptly and in any event within three months of the grounds giving rise to the claim. The Court's permission is required for a claim for JR to proceed. This can be in the form of an oral or paper hearing; with an oral hearing taking generally longer.

### **Oral renewal**

In cases where the Court refuses permission (either in full or in part) the claimant may request that the decision be reconsidered at a hearing (referred to in this

publication as an “oral renewal”). The oral renewal is a full reconsideration of the decision on permission, supported by oral submissions. Where permission is granted, the claim will continue to a hearing. Where it is refused, the claimant may consider whether he or she wishes to appeal to the Court of Appeal. This publication does not cover statistics from the Court of Appeal (see Figure 16 shows a simplified Judicial Review process).

**Figure 12: Flow chart showing a simplified Judicial Review process, with 2007 case progression figures**



Please note applications can be withdrawn at any stage in the process where cases may be on court waiting lists, withdrawn by the claimant or settled privately.

### Judicial Review topics

In order to aid with the presentation of the JR data four types have been created. These are; Criminal, Civil (other), Civil (Immigration and Asylum) and Unknown. The lists below show how topics are categorised into these groups, and have been agreed as such by the HMCTS.

Civil (Immigration and Asylum): Asylum Support, Asylum Fresh Claim, Cart – Immigration, Extradition (including Part 1 and 2), Fresh claim not mandatory transfer, Human rights fresh claim, Immigration Asylum only, Immigration asylum fresh claim, Immigration Detention, Immigration legislation validity, Immigration Not Asylum and Naturalisation, Citizenship, Immigration Sponsor Licensing and Immigration Declaration of Incompatibility.

Civil (Other): Other, Age Assessment, Agriculture & Fisheries, Animals, Anti Social Behaviour Order, Armed Forces, Bail, Bind Over, Broadcasting, Bye-Laws, Caravans and Gypsies, Care Standards, Care Proceedings, Cart - Other, Child Support, Community Care, Companies, Consumer Protection, Contempt, Coroners, Costs and Legal aid (Civil), County Court, Criminal Cases Review Commission, Criminal Injuries Compensation Authority, Crown Court, Disciplinary Bodies, E.C., Education, Elections, Employment, Firearms, Food and Drugs, Family, Children and Young Persons, Freedom of Information, Health and Safety, Highways, Homelessness, Housing, Housing Benefit, Inquiries, Jurisdiction (Crown Office), Land, Licensing, Local Government, Magistrates Courts Procedure, Mental Health, Parole, Police (Civil), Pollution, Prisons, Prisons (not parole), Proceeds of Crime Act, Public Contract Regulations 2006, Public Funding and Grants, Public Health (Not Disciplinary matters), Public Utilities (include OFTEL etc), Rates/Community Charge/Council Tax, Registered Homes, Road Traffic, Social Security, Solicitors Disciplinary Appeal Tribunal, Solicitors Regulation Authority, Statutory Nuisance, Tax, Town and Country Planning, Trade and Industry, Transport - Not RTA, VAT, Valuation Tribunal Appeals, Vexatious Litigants, Welsh Devolution Issues

Criminal: Cautions, Committal for Trial and for Sentence, Costs and Legal aid (Criminal), Criminal Fine Enforcement, Criminal Law (General), Custody Time Limits, Decision as to Prosecution, Drug Trafficking, Evidence, Financial Penalties - Enforcement, PACE, Public Order Act, Sentencing, Terrorism, Trade Descriptions.

The unknown category covers a small number of cases where topic was not known.

### **Judicial Review timeliness**

The timeliness figures are presented in days from the date lodged to the respective stage in the process. This analysis only includes cases that reach this stage and were;

- Granted or refused at permission stage
- Granted or refused at renewal stage
- Allowed or dismissed at permission stage

A small number of negative values (due to input errors on the dates) have been converted to zeros for the purpose of this analysis.

## **Offices of the Supreme Court**

The Offices of the Supreme Court supports the Supreme Court and covers;

- The Court Funds Office
- The Offices of the Official Solicitor and the Public Trustee
- Tipstaff

### **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 a range 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**

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**

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.

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).

## **The Judiciary**

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

- **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.
- **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 cases 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.

## Tribunals

Tribunals are specialist judicial bodies which decide disputes in particular areas of law. Appeals to tribunals are generally against a decision made by a Government department or agency. The exception to this is the Employment Tribunal where cases are on a party v party basis (specifically, employee versus employer). There are tribunals in England, Wales, Scotland and Northern Ireland covering a wide range of areas affecting day-to-day life. HM Courts & Tribunals administers many of them although some are the responsibility of the devolved governments in Scotland, Wales and Northern Ireland.

Tribunals have a two-tier structure (see Figure 13). The First-tier tribunal hears first instance appeals, primarily (but not exclusively) against certain decisions made by Government departments or other public bodies). The Upper Tribunal generally hears appeals from decisions of the First-tier tribunal although it also deals with certain matters at first instance.

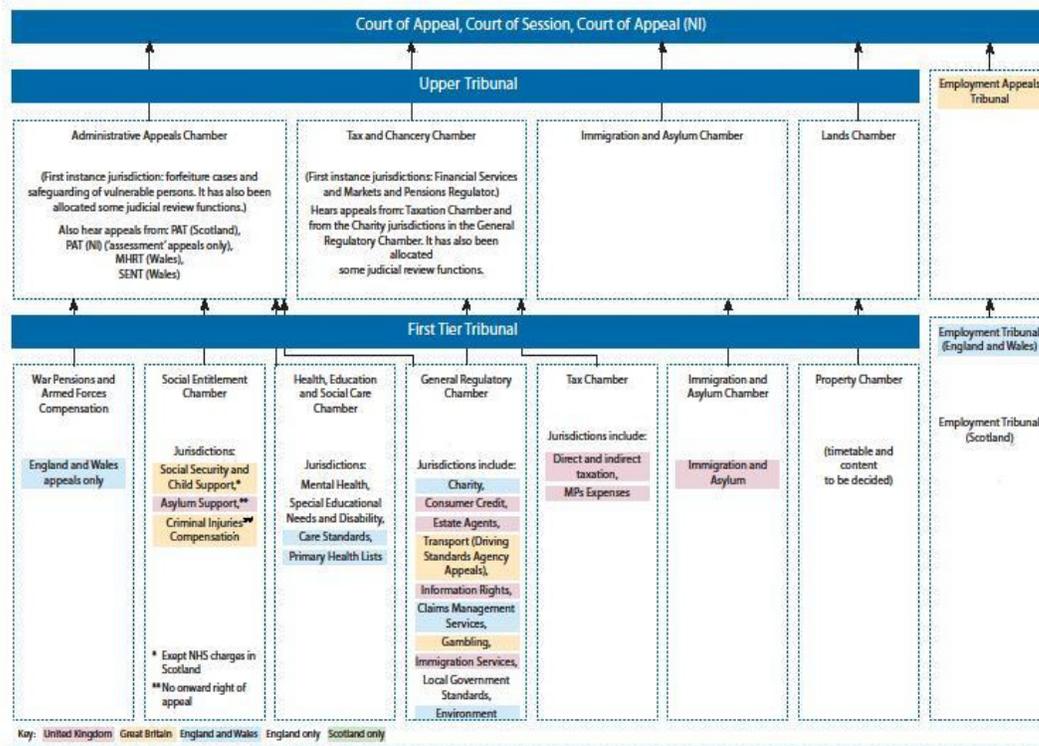
The two tiers are divided into chambers which deal with particular areas of work. There are seven chambers in the First-tier Tribunal:

- War pensions and Armed Forces Compensation, dealing with appeals against decisions in those matters;
- Social Entitlement: which mainly deals with appeals against decisions of DWP on entitlement to welfare benefits but also appeals against decision on child maintenance payments, Asylum Support and Criminal Injuries Compensation.
- Health, Education and Social Care: this deals with a range of appeals including decisions taken under the Mental Health Act and assessments of Special Educational Needs.
- Tax Chamber: appeals against assessments of direct and indirect taxation and it also deals with appeals in cases of MPs' expenses.
- Immigration and Asylum: appeals against decisions of the UKBA on leave to come to, or remain in, this country, asylum claims and appeals against deportation orders.
- Property: primarily disputes about rent and land valuations.
- General Regulatory: this deals with a wide range of matters, mainly in relation to regulated services, such as Charity, Information Rights, Claims Management, Gambling and Transport;
- HMCTS is also responsible for a number of specialist tribunals, including, for example, the Gender Recognition Panel.

- The Upper Tribunal has four Chambers: Tax and Chancery, Immigration and Asylum, Lands and Administrative Appeals.

In addition, HMCTS is also responsible for the administration of the Employment Tribunals and the Employment Appeals Tribunal, although these sit outside the unified structure.

**Figure 13: First and Upper tier tribunal chambers**



For more information on the tribunals system please see the information below:

Tribunal judgements: [BAILII - BAILII Databases](#)

## Employment Tribunals

For background information on the reforms please see:

[www.justice.gov.uk/tribunals/employment](http://www.justice.gov.uk/tribunals/employment)

[www.gov.uk/government/publications/employment-tribunal-receipt-statistics-management-information-july-to-september-2013](http://www.gov.uk/government/publications/employment-tribunal-receipt-statistics-management-information-july-to-september-2013)

[www.gov.uk/government/consultations/employment-tribunal-rules-review-by-mr-justice-underhill](http://www.gov.uk/government/consultations/employment-tribunal-rules-review-by-mr-justice-underhill)

The department of Business, Innovation and Skills (BIS) have also recently published a study on claimants who had been successful at the employment tribunal and were awarded money.

[www.gov.uk/government/publications/payment-of-employment-tribunal-awards](http://www.gov.uk/government/publications/payment-of-employment-tribunal-awards)

### **Social Security and Child Support**

The Department for Work and Pensions (DWP) have carried out analysis on the overturn rates for Employment and Support Allowance (ESA) by region and health condition, for further information see:

[www.gov.uk/government/publications/employment-and-support-allowance--6](http://www.gov.uk/government/publications/employment-and-support-allowance--6)

### **Special Educational Needs and Disability**

[www.justice.gov.uk/publications/corporate-reports/tribunals/send](http://www.justice.gov.uk/publications/corporate-reports/tribunals/send)

[www.gov.uk/government/publications/children-with-special-educational-needs-an-analysis-2013](http://www.gov.uk/government/publications/children-with-special-educational-needs-an-analysis-2013)

### **Scotland Tribunals (non-MoJ)**

[www.mhtscotland.gov.uk/mhts/Annual\\_Reports/Annual\\_Reports\\_main](http://www.mhtscotland.gov.uk/mhts/Annual_Reports/Annual_Reports_main)

[www.asntscotland.gov.uk/asnts/181.25.141.html](http://www.asntscotland.gov.uk/asnts/181.25.141.html)

[www.prhpscotland.gov.uk/prhp/128.html](http://www.prhpscotland.gov.uk/prhp/128.html)

### **Northern Ireland Tribunals (non-MoJ)**

[www.courtsni.gov.uk/en-](http://www.courtsni.gov.uk/en-)

[GB/Services/Statistics%20and%20Research/Pages/default.aspx](http://www.courtsni.gov.uk/en-GB/Services/Statistics%20and%20Research/Pages/default.aspx)

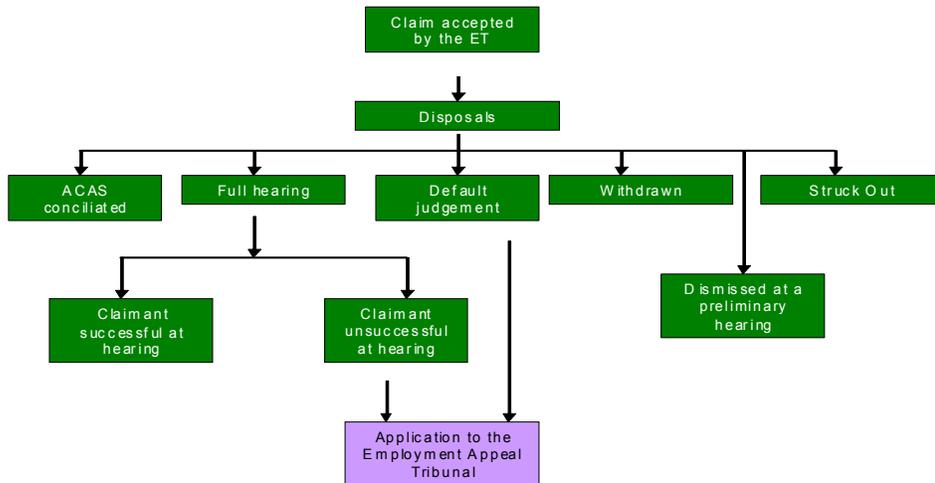
Appeals to the First-tier Tribunal are against the decisions from government departments and other public bodies. The Upper Tribunal hears appeals from the First-tier Tribunal on points of law; specifically, an appeal made over the interpretation of a legal principle or statute. Further appeals may be made, with permission, to the Court of Appeal.

Tribunal judges are legally-qualified. Tribunal members are specialist non-legal members of the panel and include doctors, chartered surveyors, ex-service personnel or accountants. Tribunals often sit as a panel comprising a judge and non-legal members however in some jurisdictions cases may be heard by a judge or member sitting alone.

The following simplified flowcharts show the stages of Tribunal receipts and disposals for the three main Tribunal types. Note that these figures relate to the caseload in 2012/13 so the figures for receipts will not sum to the same total as the number of disposals. Not all receipts would have had a hearing or been disposed of otherwise in the same financial year as received. As well as cases officially recorded as 'withdrawn', there are other cases that are withdrawn and therefore do not proceed to the next stage.

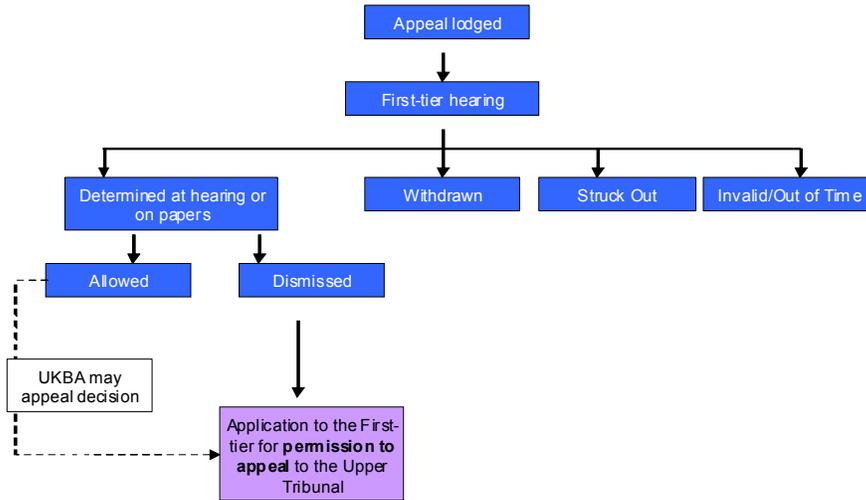
Following the process shown in the flowcharts, cases can be progressed to the Court of Appeal and ultimately to the Supreme Court. Please note these are simplified flowcharts and do not cover all the possible processes involved.

**Figure 14: Employment Tribunal receipts and disposals**

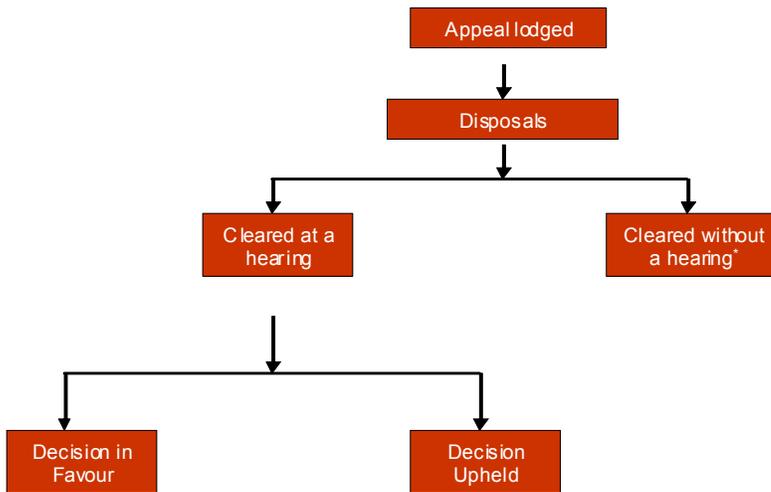


Employment tribunals can cover 'single' or 'multiple' claims, for more information please see the case studies below.

Figure 15: Immigration and Asylum Tribunal receipts and disposals



**Figure 16: SCS Tribunal receipts and disposals**



\*Cleared without a hearing includes strike outs, superseded and withdrawals prior to a hearing.

## Gender Recognition Certificates

Under United Kingdom law, individuals are considered by the State to be of the gender – either male or female – that is recorded on their birth certificate. The Gender Recognition Act 2004, which came into effect on 4 April 2005, enables transsexual people to apply to the GRP to receive a Gender Recognition Certificate (GRC) to overwrite the gender recorded on their birth certificate.

The GRP is part of Her Majesty's Courts and Tribunals Service (HMCTS), which is an executive agency of the Ministry of Justice. The GRP is comprised of judicially trained legal and medical members and is supported by an administrative team. The panel sit in private and consider the documentary evidence supplied by the applicant in support of their application.

An application for a Gender Recognition Certificate (GRC) requires applicants to demonstrate that:

- They have, or have had, gender dysphoria.
- They have lived fully for the last two years in their acquired gender.
- They intend to live permanently in their acquired gender.

There are two application processes for obtaining a GRC:

1. **Standard track** applications are those submitted under the standard application process, on the basis of having lived permanently in the acquired gender for two years or more.
2. **Overseas track** applications are those submitted under the overseas application process, on the basis of having changed gender under the law of an approved country or territory outside the United Kingdom.

The overseas process requires applicants to demonstrate that they have been legally recognised in their acquired gender in a country or territory that is listed in the Gender Recognition (Approved Countries and Territories) Order 2011. Under all circumstances, an applicant must also prove that they are at least 18 years of age at the date of application.

A full GRC issued by the GRP shows that a person has satisfied the criteria for legal recognition in the acquired gender. It is issued to a successful applicant if he or she is not married or in a civil partnership. From the date of issue, the holder's gender becomes the acquired gender for all purposes. Such individuals are entitled to all the rights appropriate to a person of their acquired gender, including the right to marry someone of the opposite legal gender, form a civil partnership with someone of the same legal gender, and to retire and receive state pension at an age appropriate to their acquired gender. A person whose

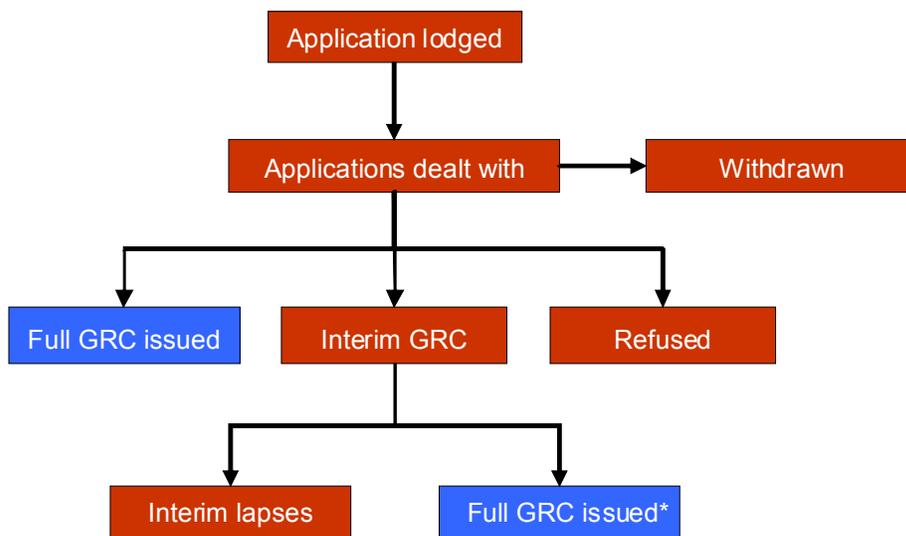
birth was registered in the UK is able to obtain a new birth certificate showing their recognised legal gender.

An interim GRC is issued to a successful applicant if he or she is married or in a civil partnership at the time of the application. The interim certificate is issued to allow the applicant and his or her spouse or civil partner to end their marriage or civil partnership easily. It has no legal significance beyond this use. When the marriage or civil partnership is ended, a full GRC will be issued to the applicant.

On 17 July 2013 the Marriage (Same Sex Couples) Act 2013 received Royal Assent and the first same sex weddings will be able to take place from Saturday 29 March 2014 (subject to the approval of Parliament). The Government is aiming to implement the gender recognition provisions of the 2013 Act by the end of 2014. These will enable some married applicants to receive a full GRC (rather than an interim GRC) where the couple indicate that they wish to remain married.

Figure 17 shows the stages of the GRC process. Note that the figures in the accompanying tables relate to the workload in the quarter October to December 2013 so the figures for receipts will not sum to the same total as the number of cases determined, as some of the determinations will relate to applications received in earlier periods.

**Figure 17: The Gender Recognition Certificate process**



\*At this stage a full GRC could be issued by either a court or the GRP.

More information about the gender recognition process and the work of the GRP can be found on the Ministry of Justice website at:

[www.justice.gov.uk/tribunals/gender-recognition-panel](http://www.justice.gov.uk/tribunals/gender-recognition-panel)

Further information about the Marriage (Same Sex Couples) Act 2013 and when the changes might take effect can be found at:

[www.gov.uk/government/policies/creating-a-fairer-and-more-equal-society/supporting-pages/equal-marriage-for-gay-lesbian-bisexual-and-trans-people-and-protecting-lgbt-rights](http://www.gov.uk/government/policies/creating-a-fairer-and-more-equal-society/supporting-pages/equal-marriage-for-gay-lesbian-bisexual-and-trans-people-and-protecting-lgbt-rights)

Quarterly figures on the workload of all the tribunals run by HMCTS are published in the Official Statistics bulletin entitled 'Quarterly Tribunals Statistics'.

## Coroners

In England and Wales, coroners are required by law to hold an inquest into violent, unnatural, sudden deaths of unknown cause, and those deaths which occur in prison or police custody. When investigating a death, it is the coroner's duty to establish who the deceased was, and how, when and where the death occurred. At the close of an inquest, coroners (or juries if they have been summoned) are required to return a verdict covering these questions and to certify the verdict in an inquisition (the written record of the inquest).

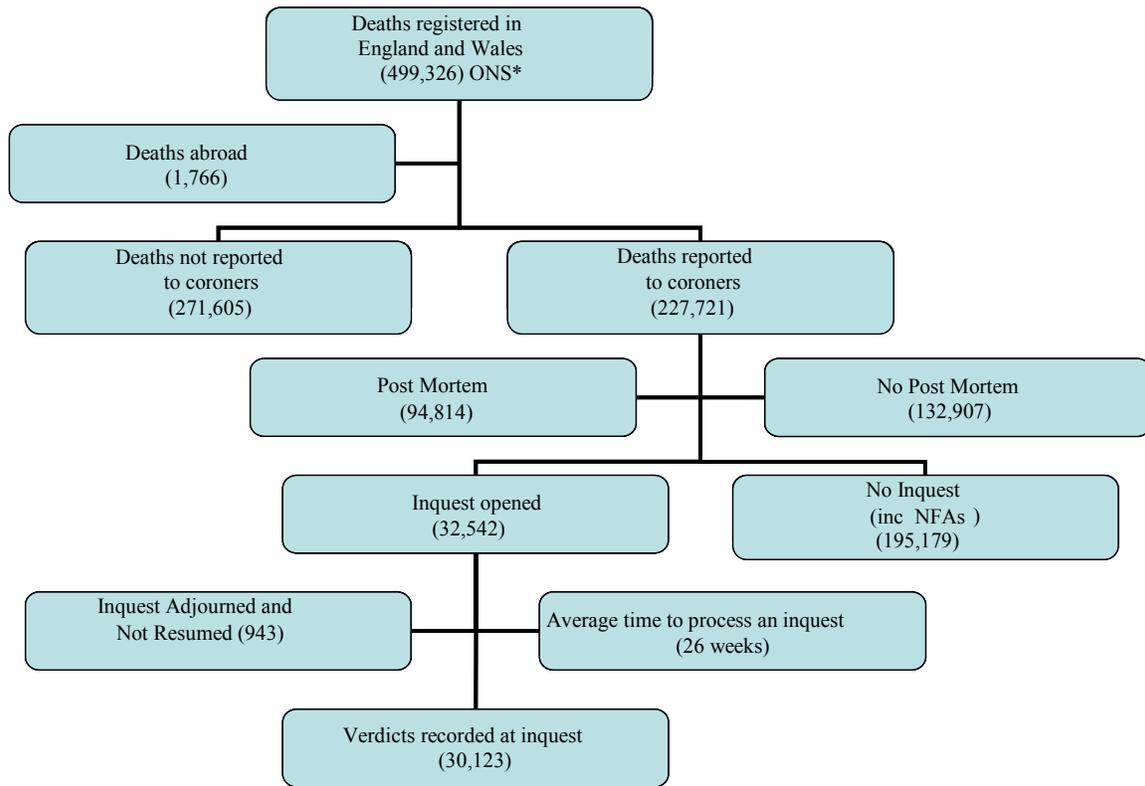
In the majority of deaths reported to them, however, coroners' investigations are concluded without an inquest being held. The coroner will have satisfied themselves, by means of a post-mortem examination or other investigation, on the physical cause of death, and that the death was not one on which he or she is required by law to hold an inquest.

Verdicts are returned in nearly all inquests. The exceptions are inquests adjourned by the coroner if, for example, criminal proceedings take place. The inquest is usually not resumed because the relevant evidence has been heard elsewhere. Most inquests are held by a coroner sitting alone, without a jury, but a jury must be summoned in some circumstances, for example where the death occurred in prison or police custody.

A coroner may request that a post-mortem be conducted, whether or not an inquest is held, particularly if the cause of death is not clear. In many cases a post-mortem examination may take place in order to determine whether or not an inquest is necessary.

Figure 18 shows the possible outcomes involved when a death is reported to a coroner.

**Figure 18: Deaths reported to coroners, 2012**



\*Provisional ONS figure

In England and Wales a coroner also handles investigations regarding finds reported to them under the provisions of the Treasure Act 1996. The coroner will inquire into any treasure which is found in their districts and establish who the finders were.

## Data Sources and Data Quality

This section outlines the different data sources used to compile the statistics presented in the bulletins with discussion on data quality where relevant.

### **Timeframe and Publishing Frequency of Data**

All the data covered in this guide are mostly published on a quarterly basis, the exception being additional information on the appellate courts which is only produced annually. The latest quarter is to be treated as provisional and maybe revised in future publications. This is because most of the data is extracted from live administrative databases.

Each quarter the latest reference period will be published so statistics will be for the year ending March, June, September or December. For upcoming publications please see the MoJ publication schedule:

[www.gov.uk/government/organisations/ministry-of-justice/about/statistics#publication-schedule](http://www.gov.uk/government/organisations/ministry-of-justice/about/statistics#publication-schedule)

### **Civil cases (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.

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 the repossession of property can be made via the internet ([www.moneyclaim.gov.uk](http://www.moneyclaim.gov.uk)<sup>1</sup> and [www.possessionclaim.gov.uk](http://www.possessionclaim.gov.uk)<sup>2</sup>). In addition, claimants who issue a large number of claims for a specified amount of money each year (for example, banks, credit card and store card issuers, utility companies, debt recovery companies) can do so by filing them in computer readable form to the Claim Production Centre (CPC) (<http://www.justice.gov.uk/courts/northampton-bulk-centre>)

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<sup>1</sup> [www.moneyclaim.gov.uk/web/mcol/welcome](http://www.moneyclaim.gov.uk/web/mcol/welcome)

<sup>2</sup> [www.possessionclaim.gov.uk/pcol/](http://www.possessionclaim.gov.uk/pcol/)

CaseMan combines data from electronic services and from the court-based administrative systems. It contains information about the incidence and dates of major events in a case's progress through the court system.

From Q4 2011 onwards, the numbers of insolvency petitions have been sourced from CaseMan for all courts except the Royal Courts of Justice. For previous quarters 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 Q4 2011 onwards are approximately 3% lower overall (both including and excluding the Royal Courts) 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 4% lower, and debtors bankruptcy petitions are around 3% lower. There was a phased transition for courts to transfer their insolvency information onto Caseman. This may affect the quality of the data for Q4 2011, and the earlier quarters of 2012 for certain courts.

The following data are considered to be of lower quality:

- 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 caseloads. 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.
- The numbers of small claims hearings and trials from 2003 onwards are sourced from CaseMan. The accuracy of these counts is dependent on court staff entering the correct hearing types and outcome codes onto the system. Because a large number of hearing outcomes for 2000-2002 were not entered into CaseMan, figures for these years are provided from manual returns that all county courts were required to make each month.
- The numbers of repossessions of property by county court bailiffs are sourced from the CaseMan and Possession Claim Online systems. The accuracy of these figures is dependent on court staff entering the correct warrant outcome codes onto the system.
- Differences in repossession figures
- Repossessions figures are published in both the Mortgage and Landlord Possession statistics and in Court Statistics Quarterly. The figures in the

## **Family cases**

The data on the family related court cases 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, financial remedy 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 have 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 2011 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 2011 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.

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 at

[www.ons.gov.uk/ons/media-centre/statements/moj-and-ons/index](http://www.ons.gov.uk/ons/media-centre/statements/moj-and-ons/index)

The information on Forced Marriage Protection Orders 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 were also provided by the Principal Registry of the Family Division, a division of the High Court.

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

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

## **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 in Table 3.1 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.

The MoJ's publication Criminal Justice Statistics (CJS) also contains data on the criminal cases in the magistrates' courts. The figures are derived from the same core source as those presented in this report (the Libra 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, CJS counts numbers of

defendants and focuses on the final outcomes of criminal court cases, whilst CSQ 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.

### **Timeliness of criminal proceedings**

Statistics on the timeliness of criminal proceedings completed in the criminal courts 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.

### **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.

## **Crown Court**

This information has been produced using the Crown Court 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 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. Changes in system and procedures can lead to reporting discrepancies as courts may need time to adjust to new ways of working.

The MoJ's publication CJS also contains data on the criminal cases in the Crown Court. The figures are derived from the same core source as those presented in this report (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, CJS counts numbers of defendants and focuses on the final outcomes of criminal court cases, whilst CSQ 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.

## **Enforcement of financial impositions**

The measures reported in the CSQ have been developed by HMCTS in response to recommendations made by the National Audit Office for measuring the enforcement of financial impositions.

The management information presented in Tables B.1 to B.4 are sourced from the HMCTS Performance database, and is populated based on information contained on the Libra Management Information (accounting system). This data system contains information about financial impositions and collection of monies owed for England and Wales. Although the information is available regionally, there will be some transfers of accounts across regions which can lead to inconsistencies in accounts opened and closed regionally.

Data provided by the magistrates' courts accounting centres is checked and verified at account level by court staff within three days of the date of imposition, and the centrally collated data are subject to further checks including the investigation of apparent anomalies in the data.

## **High Court and Appellate Courts**

The High Court and the Appellate Courts use a variety of local administration systems to produce published information. Below are details on the database used for Judicial Reviews. Further information on other databases used by the Appellate courts will be added over time.

Administrative Court – the Administrative Court covers a range of issues including Judicial Reviews. The Administrative Court database is called COINS. COINS stands for “Crown Office Information Network System”. This is because the Administrative Court Office was formerly known as the Crown Office.

Data for Judicial Reviews is extracted from the COINS database and provided to JSAS for analysis. This extraction is based on a live administrative system and figures are subject to change with new extractions. Extractions are typically done four weeks prior to publication.

## **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.

## **Tribunals**

Information presented on Tribunals is management information drawn from a number of administrative sources. These are owned and managed by HMCTS, who provide the data to a central statistics team in MoJ for publication. The different Tribunals all currently use different management information systems, the main ones are listed below;

- Immigration and Asylum: The database used by HMCTS to record Tribunal information with respect to Immigration and Asylum is called ARIA. ARIA went live in 2000 and holds around 150,000 records (receipts) per year.
- Employment: ETHOS: The database used by by HMCTS to hold information with respect to Employment (single and multiple) Tribunals. The database went live in 2007 and holds around 200,000 records per year. After a period of time after a case has closed (normally a year) the records are archived onto a separate database called COIT.
- Social Security and Child Support: The database used by HMCTS to hold Tribunal information with respect to the Social Security and Child Support is called GAPS2. This database went live in 2007 and holds around 400,000 records per year.
- Mental Health – The database used by HMCTS to record Tribunal information with respect to Mental Health Tribunals is called MARTHA. MARTHA went live in 2008 and holds around 30,000 records (receipts) per year.
- There are also a range of smaller systems that hold information on the special tribunals. Some of this data is in the progress of being migrated onto the GAPS2 system. This includes information on Special Educational Needs.

Although care is taken when processing and analysing the data, the details are subject to inaccuracies inherent in any large-scale recording system and it is the best data that is available at the time of publication. HMCTS is examining the quality of management information. Thus, it is possible that some revisions may be issued. At the end of each financial year the quarterly data is revised, so that the annual figures are the sum of the four quarters. At present this revisions are not made within the year.

The statistics are based on case management systems where a number of processes are recorded throughout the life of an appeal. In some instances, a case can re-enter the process or have a number of outcomes, meaning that there is not necessarily one receipt or one disposal per case. The quality of management information is being examined. Thus, care should be taken when comparing receipts and disposals.

## **Language services in courts and tribunals**

Data for this bulletin are taken from the interpreter's booking portal managed by Capita TI. All requests for translation services are booked by HMCTS Service staff, who are responsible for closing completed requests within 48 hours of the booking being concluded. If it goes beyond 48 hours, the interpreter is permitted to close down the booking, as this is the mechanism by which they are paid.

All bookings closed by interpreters are scrutinised by HMCTS staff, and any discrepancies are reviewed with the Ministry of Justice Contract Manager and Capita TI with the necessary action taken.

All data are subject to quality assurance. Officials in the Ministry of Justice routinely check the data to ensure that no cases are removed and that data received matches with information already held. HMCTS Service staff can see this information and, if they do not agree, it is reported through the complaints process. Staff at Capita TI carry out monthly verifications of data for example every month they spot check 5% of cancelled jobs entered as Customer cancelled. This is to determine if they have been closed correctly.

As part of final checks, Ministry of Justice officials and Capita TI staff work together to identify and correct wrongly allocated bookings. For example bookings made via telephone on-behalf of the requesters, can on occasions be allocated to the court making the request instead of to the location that requires the interpreter.

## **Gender Recognition Certificates**

Figures on Gender Recognition Certificates cover those that are applied for and granted by Her Majesty's Courts and Tribunals Service's Gender Recognition Panel (GRP). This panel is not a Tribunal but is presided over by a Tribunal Judge. The data are taken from a central database in the Ministry of Justice called GRS2000.

The figures presented in this bulletin are collected from officials at the GRP. The data collected are quality-assured and validated in a process that highlights inconsistencies between quarters, and other areas. Checks are made to ensure that each month's data are arithmetically correct, with subtotals and grand totals correctly summed. Unusual values encountered are queried with the data supplier to confirm whether these are correct, or are an error in the information provided which requires amendment. Every effort is made to ensure that the figures presented in this publication are accurate and complete.

## **Revisions**

In accordance with Principle 2 of the Code of Practice for Office Statistics, the Ministry of Justice is required to publish transparent guidance on its policy for revisions. A copy of this statement can be found at:

[www.gov.uk/government/organisations/ministry-of-justice/about/statistics#statistics-policy-and-procedures](http://www.gov.uk/government/organisations/ministry-of-justice/about/statistics#statistics-policy-and-procedures)

The three reasons specified for statistics needing to be revised are;

1. changes in sources of administrative systems or methodology changes
2. receipt of subsequent information, and;
3. errors in statistical systems and processes. Each of these points, and its specific relevance to the criminal justice statistics publication, are addressed below:

### **1. Changes in source of administrative systems/methodology changes**

The data within this publication comes from a variety of administrative systems. This technical document will clearly present where there have been revisions to data accountable to switches in methodology or administrative systems. In addition, statistics affected within the publication will be appropriately footnoted.

### **2. Receipt of subsequent information**

The nature of any administrative system is that data may be received late. For the purpose of this statistics publication, the late data will be reviewed on a quarterly basis but, unless it is deemed to make significant changes to the statistics released; revisions will only be made as part of the final release containing the calendar year statistics. However should the review show that the late data has major impact on the statistics then revisions will be released as part of the subsequent publication.

### **3. Errors in statistical systems and processes**

Occasionally errors can occur in statistical processes; procedures are constantly reviewed to minimise this risk. Should a significant error be found the publication on the website will be updated and an errata slip published documenting the revision.

## Legislation coming into effect in the reporting period

The legislation described below relates mainly to legislation that came into force in the period from January 2000 to the end of 2012. It is only a short summary of the sections that may have affected the published statistics. The following web site has details of all legislation that has come into force in the intervening period. [www.legislation.gov.uk](http://www.legislation.gov.uk)

The coverage of the sentencing statistics in this volume may have been affected by the following legislation, which has altered the modes of trial, sentencing framework or significantly altered the range of offences:

- Financial Services and Market Act 2000
- Adoption and Children Act 2002
- Civil Partnership Act 2004
- Domestic Violence, Crime and Victims Act 2004
- Gender Recognition Act 2004
- Mental Capacity Act 2005
- Forced Marriage (Civil Protection) Act 2007
- Tribunals, Courts and Enforcement Act 2007
- Child maintenance and Other Payments Act 2008
- Criminal Justice and Immigration Act 2008
- Legal Aid, Sentencing and Punishment of Offenders Act 2012

The **Financial Services and Market Act 2000** introduced a Mortgage Pre-Action Protocol (MPAP), for a possession claims relating to mortgage or home purchase plan arrears. The Protocol gives clear guidance on what the courts expect lenders and borrowers to have done prior to a claim being issued. The main aims of it were to ensure that the parties act fairly and reasonably with each other in any matters concerning the mortgage arrears, to encourage more pre action contact between lender and borrower and to enable efficient use of the court's time and resources.

The **Adoption and Children Act 2002** made amendments to the law in relation

to the adoption of children. The first stage of the Act deals with Local Authorities duties to provide an adoption service and support services. The second stage relating to inter-country adoptions and the third stage relates to Adoption Support Services. Changes to parental responsibility and the adopted children register were also made.

The **Civil Partnership Act 2004** grants civil partnerships in the United Kingdom with rights and responsibilities identical to civil marriage. Civil Partners are entitled to the same property rights as married opposite-sex couples, the same exemption as married couples social security and pension benefits, and also the ability to get parental responsibility for a partner's children, as well as responsibility for reasonable maintenance of one's partner and their children, tenancy rights, full life insurance recognition, next-of-kin rights in hospitals, and others. There is a formal process for dissolving partnerships akin to divorce.

The **Domestic Violence, Crime and Victims Act 2004** concentrates upon legal protection and assistance to victims of crime, particularly domestic violence.

The **Gender Recognition Act 2004** enables transsexual people to apply to the Gender Recognition Panel (GRP) to receive a Gender Recognition Certificate (GRC).

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

- the Court of Protection
- the Public Guardian, supported by the Office of the Public Guardian

The **Criminal Justice and Immigration Act 2008** was a wide ranging Act which aimed to make further provisions about the criminal justice system; dealing with offenders; the management of offenders; and to amend the Repatriation of Prisoners Act 1984. It created or amended a number of offences, including:

New civil penalties for serious breaches of data protection principles and made unlawfully obtaining personal data an offence punishable by up to two years in prison;

The creation of Violent Offender Orders (VOOs): Civil preventative orders that allow courts to impose post-sentence restrictions on those convicted of violent offences.

The **Forced Marriage (Civil Protection) Act 2007** seeks to assist victims of forced marriage, or those threatened with forced marriage, by providing civil remedies. The Act created the *forced marriage order*. A person threatened with forced marriage can apply to court for a forced marriage order. The court can then order a range of appropriate provisions to prevent the forced marriage from taking place, or to protect a victim of forced marriage from its effects, and may include such measures as confiscation of passport or restrictions on contact with the victim.

The subject of a forced marriage order can be not just the person to whom the forced marriage will occur, but also any other person who aids, abets or encourages the forced marriage. A marriage can be considered forced not merely on the grounds of threats of physical violence to the victim, but also through threats of physical violence to third parties (for example, the victim's family), or even self-violence (for example, marriage procured through threat of suicide.) A person who violates a force marriage order is subject to contempt of court proceedings and may be arrested.

The **Tribunals, Courts and Enforcement Act 2007** was amended with a statutory instrument (The Employment Tribunals and the Employment Appeal Tribunal Fees Order 2013) to allow for fees in the Employment Tribunal. These came into effect on the 29<sup>th</sup> July 2013.

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.

The **Criminal Justice and Immigration Act 2008** made a number of changes around criminal justice and sentencing, including the introduction of a new community orders, called *youth rehabilitation orders* for young people aged under 18.

The **Legal Aid, Sentencing and Punishment of Offenders Act 2012** made provision about legal aid; to make further provision about funding legal services; to make provision about costs and other amounts awarded in civil and criminal proceedings; to make provision about referral fees in connection with the provision of legal services; to make provision about sentencing offenders, including provision about release on licence or otherwise; to make provision about the collection of fines and other sums; to make provision about bail and about remand otherwise than on bail; to make provision about the employment, payment and transfer of persons detained in prisons and other institutions; to make provision about penalty notices for disorderly behaviour and cautions; to make provision about the rehabilitation of offenders; to create new offences of threatening with a weapon in public or on school premises and of causing serious

injury by dangerous driving; to create a new offence relating to squatting; to increase penalties for offences relating to scrap metal dealing and to create a new offence relating to payment for scrap metal; and to amend section 76 of the Criminal Justice and Immigration Act 2008.

# Methodology

## **Generalised estimation method for the number of case that reach any stage in the court process in civil justice**

### **Summary**

This paper sets out a methodological approach to estimate the number of claims in a given time period that will reach the different stages in the court process.

The simulation approach using historical data can reliably predict any stage in the court process with just one quarter of data. The approach is also generalisable to any court system and it can be improved by adding weighting to allow recent changes in the court process to be taken into consideration more quickly.

### **Introduction**

Unlike criminal court cases, where each case has a clear start and end point, a civil justice case can take one of many end points, usually with the majority of them being out of court (eg, less than a third of all mortgage claims lead to a repossession by county court bailiffs). Additionally, court cases can remain open in the courts for an unspecified amount of time.

For example of the 59,877 mortgage possession claims made in 2012, there were 39,908 orders (around 67%) by June 2013, but not all of these cases are closed and a few more claims will certainly still lead to an order. So the question is: how many will lead to an order in the end?

Due to the uncertainty of whether a case is still pending or has been settled, say out of court, cohort analysis of case progression or overall case timeliness of civil cases can be severely underestimated. A sufficient amount of time has to have passed to gather enough data to collect these data. Thus, it is more common to examine civil cases retrospectively, for instance the case timeliness data are based on cases that finish in a given period of time.

Retrospective analysis has three major shortcomings:

1. the most recent estimates based on retrospective analyses are usually biased as court caseloads change constantly;
2. it usually refers to cases that are under policy conditions that are no longer relevant to the current picture; and,
3. the business struggles to react early as the indicators exhibit a lag of the

Thus, the development of a robust cohort based analysis for the civil justice system would provide both up to date case progression and end to end timeliness figures.

This paper puts forward a solution to generate reliable estimates for any cohort.

## **Methodology**

### **Estimation**

The number of cases from a cohort reaching each stage in the civil justice system is estimated using historical data on the number of case initiations at each quarter as the starting point. Then it estimates how many of these continue through to the different court processes at different time points. The estimation uses an iterative process where historical data is used to estimate new data points.

For illustration purposes of the estimation methodology, the following sections will use the mortgage repossession process from claim (initial stage) to order (first stage) (see Background to the Court and Administrative System section for more information about this process). However, the method can be generalised to any type of claim and to any stage in the court process.

There are also a few concepts that are important to define for the general methodology:

- Unit of time: Most of the time units in civil justice are calendar quarters: Jan-Mar, Apr-Jun, Jul- Sep and Oct-Dec. However, the methodology can be adapted to use other time units.
- Cohort<sub>*i*</sub>: Cohort<sub>*i*</sub> refers to the cohort of claims and the *i* goes from 1 (Q1 1999) to the most recent cohort, which, at the time of writing this paper, was *i*=58 or Q2 2013.
- Distance<sub>*j*</sub>: Distance<sub>*j*</sub> refers to the distance from the cohort and starts at *j*=0 to refer to the same timeframe as the cohort. It currently ends at *j*=57 to refer to the furthest distance from Q1 1999 up to the present, currently Q2 2013. For example, for cohort *i*=1 (Q1 1999), the number of orders in Q1 1999 is zero quarters away from the cohort *i*, and so it has a distance *j* = 0. For Q1 2000 the distance is *j* = 4.

Table 1 shows a schematic example of all combinations for all available cohorts and distances. It also shows what values are currently available (status = known) and what values this methodology is trying to estimate (status = to be estimated).

**Table 1: Schema showing all Cohorts (i) and all distances (j) with respective calendar dates and current status**

Claim		Order		Status
Cohort (i)	Date	Distance (j)	Date	
i = 1	Q1 1999	0	Q1 1999	Known
	Q1 1999	1	Q2 1999	Known
	...			
i = 2	Q1 1999	57	Q2 2013	Known
	Q2 1999	0	Q2 1999	Known
	Q2 1999	1	Q3 1999	Known
	...			
	Q2 1999	56	Q2 2013	Known
i = 3 to 57	Q2 1999	57	Q3 2013	To estimate
	...			
	...			
i = 58	Q2 2013	0	Q2 2013	Known
	Q2 2013	1	Q3 2013	To estimate
	...			
	Q2 2013	57	Q3 2027	To estimate

### Step 1: Data

The first step is to prepare the necessary data for the cohort estimation. The dataset is composed of four variables: year of the cohort, quarter of the cohort, stage and the distance from the cohort (in quarters). Thus, cohort<sub>i</sub> is derived from a combination of two variables: year of the cohort and quarter of the cohort; and distance<sub>j</sub> is the distance (in quarters) from the date of the cohort<sub>i</sub>.

The numbers are derived from tracking a cohort of claims made until the present quarter to see how they turn into orders in each of the subsequent quarters. The sum of these numbers is the total number of claims that were turned into orders.

### Step 2: Conversion rates

The conversion rates are defined as the percentages of claims of *i* that receive an order in a given distance *j*.

$$\text{conversion rate}_j = \frac{\text{number of orders}_j}{\text{number of claims}_i}$$

for all  $i = 1, \dots, 58$  with  $i + j \leq 58$ .

The first cohort of data (Q1 1999) has 57 conversion rates up to Q2 2013. For the next quarter, Q2 1999 (where  $i = 2$ ), there is no available conversion rate for  $j = 57$  as this is in the future (Q3 2013) and therefore it has 56 conversion rates and the 57<sup>th</sup> conversion rate can be estimated.

More generally, all conversion rates that can be directly calculated using the data can then be used to estimate all the way up to 57 periods forward in time for all quarters. So, values for orders for the most recent quarter, Q2 2013, are estimated quarterly up to Q3 2027 and the sum of all quarters gives us the final expected number of claims that became orders for Q2 2013.

### Step 3: Distribution

Unknown conversion rates for each quarter are estimated using all historical conversion rates. These conversion rates have different distributional shapes and are likely to follow a range of distributions. For the mortgage repossession claims to order a Gamma distribution was deemed to be flexible enough to accommodate the wide range of changes. However, simulation results were also ran with a normal distribution and the results were not deemed to be significantly different.

Below we show the parametrisation used for the conversion rates using the Gamma distribution.

For each  $j$  the conversion rate  $r_j \sim \Gamma(\text{shape}_j, \text{scale}_j)$

where

$$\text{shape}_j = \frac{[\text{mean}(\text{conversion rates}_{i,j})]^2}{\text{var}(\text{conversion rates}_{i,j})} \text{ for all } i = 1, \dots, 58 \text{ with } i + j \leq 58$$

$$\text{scale}_j = \frac{\text{var}(\text{conversion rates}_{i,j})}{\text{mean}(\text{conversion rates}_{i,j})} \text{ for all } i = 1, \dots, 58 \text{ with } i + j \leq 58$$

So, the dataset of conversion rates for  $j=1$  is the following 57 conversion rates and it follows a Gamma distribution (see figure 17 below) with shape and scale parameters calculated using the conversion rates dataset.

Any estimation of the means and variances can be weighted to allow for recent changes in the court process to be incorporated quicker.

### Step 4: Estimation

Random values are taken from the estimated distribution of conversion rates and applied to the period  $i$ . So, the Gamma distribution underlying the vector of conversion rates for  $j=1$  provides an estimated conversion rate for the number of claims from Q2 2013 ( $i = 58$ ) that became orders in Q3 2013 ( $j=1$ ).

The final estimated value of orders from a given number of claims is estimated by adding all the past actual orders to the estimated future number of orders generated for every subsequent quarter drawn randomly from the distribution.

$$\text{final number of orders}_i = \sum_{\text{all known}} \text{number of orders}_{i,j} + \sum_{\text{all estimated}} \text{estimated orders}_{i,j}$$

where  $\text{estimated orders}_{i,j} = \text{number of claims}_i \times \text{conversion rates}_j$

where  $\text{conversion rates}_j$  are randomly generated from  $\Gamma(\text{shape}_j, \text{scale}_j)$

### Step 5: Simulation

The final number of orders is highly dependent on the randomly generated conversion rates. Thus, these are simulated for 1,000 iterations where the median of this distribution is used as the expected final number of orders and the 95% confidence interval is generated by taking the 2.5 and 97.5 percentile of this distribution.

### Results

The chart below shows conversion rates histograms for  $j$  equal to one and two for illustrative purposes. It can be seen that the distributions from claims to orders from one to two quarters are changing and the skewness and symmetry are not constant.

**Figure 17: Conversion rates for within one and two quarter of the claim being issued, Q1 1999 to Q2 2013**

To test the predictive power of the model we forced the model to estimate the final number of orders from a given quarter of claims.

**Table 2: Estimates on the final number of orders given only one quarter worth of data, Q1 2012 to Q1 2013**

Quarter	Number of claims	Initial number of orders	Estimation of final number of orders (with 95% CIs)	Current number of orders (as of Q2 2013)
Q1 2011	19,608	6,213	14,653 (13,537 - 15,907)	14,343
Q2 2011	18,339	5,377	13,233 (12,235 - 14,348)	13,413
Q3 2011	18,763	5,954	14,043 (12,924 - 15,165)	13,382
Q4 2011	16,471	4,866	11,921 (11,000 - 12,949)	11,545
Q1 2012	16,963	5,489	12,767 (11,836 - 13,796)	11,683
Q2 2012	14,615	4,616	10,876 (10,076 - 11,726)	9,868
Q3 2012	14,168	4,282	10,316 (9,530 - 11,237)	9,337
Q4 2012	14,131	4,146	10,129 (9,353 - 10,991)	9,020
Q1 2013	14,375	4,347	10,465 (9,592 - 11,290)	8,770

The table above shows the initial number of orders (with only 1 quarter worth of

data), the final number of orders estimated from the model (with 95% confidence intervals) and the value as at Q2 2013. This table outlines the results using the model to estimate the final number of orders assuming they were derived when the cohorts first appeared. Comparing the estimation and the current number of orders, the model provides reliable estimates for the four quarters of 2011. For 2012 and 2013 the estimated values are substantially higher than the current value and this is expected as it is expected that a substantial amount of the claims will still be converted into orders.

The results also show that the model is robust to changes in the numbers of claims initiated.

## Directory of Related Internet Websites on the Courts and Tribunals

The following list of web sites contains information in the form of publications and/or statistics relating to the criminal justice system that may be of interest.

**Justice**, [www.gov.uk/government/organisations/ministry-of-justice](http://www.gov.uk/government/organisations/ministry-of-justice)

This site provides information on the organisations within the justice system, reports and data, and guidance.

Details of **Ministry of Justice Statistical and Research publications**, most of which can be viewed on-line, can be found at:

[www.gov.uk/government/organisations/ministry-of-justice/about/statistics](http://www.gov.uk/government/organisations/ministry-of-justice/about/statistics)

For historic publications, see the links to 'earlier volumes in the series' (on Home Office site) on individual publication pages.

Information on the **bodies within the justice system**, such as HM Prison Service, the Youth Justice Board and HM Courts & Tribunals Service can be found at: [www.gov.uk/government/organisations#ministry-of-justice/](http://www.gov.uk/government/organisations#ministry-of-justice/)

The **Crown Prosecution Service**, [www.cps.gov.uk](http://www.cps.gov.uk) Gives information on the department and provides particulars in relation to legal guidance/victims and witnesses, in addition to details of publications.

The **Attorney General's Office**, [www.attorneygeneral.gov.uk](http://www.attorneygeneral.gov.uk) Provides information on the role of the department including new releases; updates; reports; reviews and links to other law officer's departments and organisations.

The **Welsh Assembly Government**, [www.wales.gov.uk](http://www.wales.gov.uk) Gives information on all aspects of the Welsh Assembly together with details of publications and statistics.

The **Scottish Government**, [www.scotland.gov.uk](http://www.scotland.gov.uk) Gives information on all aspects of the Scottish Executive together with details of publications and statistics.

**Criminal Justice System Northern Ireland**, [www.nidirect.gov.uk/justice](http://www.nidirect.gov.uk/justice) Provides access to the main statutory agencies and organisations that make up the CJS together with details of publications.

**UK National Statistics Publication Hub**, [www.statistics.gov.uk](http://www.statistics.gov.uk) This is the UK's home of official statistics, reflecting Britain's economy, population and society at national and local level. There are links to the Office for National Statistics and the UK Statistics Authority.

## Contacts

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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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