



EUROPEAN COMMISSION FOR THE EFFICIENCY OF JUSTICE
(CEPEJ)

SCHEME FOR EVALUATING JUDICIAL SYSTEMS 2011

Country: UK-England and Wales

National correspondent

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1. Demographic and economic data

1. 1. General information

1. 1. 1. Inhabitants and economic information

1) Number of inhabitants (if possible on 1 January 2011)

55 200 000

2) Total of annual public expenditure at state level and where appropriate, public expenditure at regional or federal entity level (in €) - (If data is not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP)

	Amount
State level	569 089 000 000
Regional / federal entity level (total for all regions / federal entities)	NA

3) Per capita GDP (in €)

21 547

4) Average gross annual salary (in €)

31 728

5) Exchange rate from national currency (non-Euro zone) to € on 1 January 2011

0.8506

A.1

Please indicate the sources for questions 1 to 4 and give comments concerning the interpretation of the figures supplied if appropriate:

1)Source: Annual Mid year population estimates, 2010, ONS, (June 2011)

2)Source: Public Expenditure Statistical Analysis 2011, HM Treasury

3)We only have regional data for GVA rather than GDP. We also only have GVA data for 2009, not 2010. The Bank of England's spot exchange rate for 2nd January 2009 of 0.960892 has been used. Also these figures have been deflated using UK GDP deflators; these do not exist for England and Wales

4)€ 31,728 mean figures, € 25,186 median figures - These figures include those working full time and those working part time.

The increase (21.47%) between 2008 and 2010 in £ is minimal, and the € figure increase can be explained by the conversion rates used.

Source: Annual Survey of Hours and Earnings (ASHE), Office For National Statistics.

1. 2. Budgetary data concerning judicial system

1. 2. 1. Budget (courts, public prosecution, legal aid, fees)

6) Annual approved public budget allocated to the functioning of all courts, in €(if possible without the budget of the public prosecution services and without the budget of legal aid):

TOTAL annual approved budget allocated to the functioning of all courts (1 + 2 + 3 + 4 + 5 + 6 + 7)	<input checked="" type="checkbox"/> Yes	1 182 000 000
1. Annual public budget allocated to (gross) salaries	<input checked="" type="checkbox"/> Yes	717 000 000
2. Annual public budget allocated to computerisation (equipment, investments, maintenance)	<input checked="" type="checkbox"/> Yes	30 000 000
3. Annual public budget allocated to justice expenses (expertise, interpretation, etc), without legal aid. NB: this does not concern the taxes and fees to be paid by the parties.	<input checked="" type="checkbox"/> Yes	64 000 000

4. Annual public budget allocated to court buildings (maintenance, operating costs)	<input checked="" type="checkbox"/> Yes	238 000 000
5. Annual public budget allocated to investments in new (court) buildings	<input checked="" type="checkbox"/> Yes	1 000 000
6. Annual public budget allocated to training and education	<input checked="" type="checkbox"/> Yes	1 000 000
7. Other (please specify):	<input checked="" type="checkbox"/> Yes	131 000 000

7) If you cannot separate the budget of the public prosecution services and the budget of legal aid from the budget allocated to all courts, please indicate it clearly. If "other", please specify:

Other includes general office expenditure (stationery, postage, etc). All the figures exclude the budget for the public prosecution services and the budget for legal aid.

8) Are litigants in general required to pay a court tax or fee to start a proceeding at a court of general jurisdiction:

- for criminal cases?
 for other than criminal cases?

If yes, are there exceptions to the rule to pay court a tax or fee? Please provide comments on those exceptions:

The civil and family courts, are in the main, self funding with the majority of the cost funded by court fees. The part of cost not covered by fees is met by the general taxpayer as part of the resource budget of the Ministry of Justice. The taxpayer's contribution is made up of two elements:

- Potential fee income foregone under the system of remissions (fee waivers);
- Fees set below full cost levels (i.e. they would not cover the total cost even if none were remitted).

The objective is to recover the total cost, not counting the cost of providing fee remissions (waivers). In other words, although the term is often used, the target is not 'full-cost recovery'. A better way of describing the policy is 'full-cost pricing'.

Court fees have to comply with the general policy principles that apply to all services where Government charges fees authorised by Parliament. The most important of these is that fees should not exceed the total cost of providing the service. Fees should generally be set at levels which, on average, if charged in every case rather than waived, would recover the full cost of providing the service – fees cannot be set to make a profit. All fee-charging services must have a financial objective agreed with the Her Majesty's Treasury.

The fundamental principle in setting fees and charges, including to other government departments, is a) to promote efficient allocation of resources so that those who consume the services are encouraged to use them efficiently, and b) to maintain the link between costs and benefits, improving decision-making and accountability as a result. The remission system ensures that access to justice is protected for individuals who are less well-off and allows people on low incomes to access HMCTS services free of charge or at a reduced rate, depending on their eligibility. It is central to the policy of full-cost pricing that this system achieves its purpose.

The remission system is targeted to only those who can not afford to pay a fee and that those who can afford to pay all or part of a fee, do.

The system has three elements: an automatic full fee remission for those in receipt of a qualifying benefit, a full fee remission for those whose gross annual income is calculated to be lower than the stated thresholds and a full or part fee remission based on an income and expenditure means test to calculate monthly disposable income.

Anyone who seeks a remission from paying a fee either in full or in part, must apply to do so at the time of making a fee bearing application to HMCTS or at any time when a fee is due and provide documentary evidence of their financial eligibility.

9) Annual income of court taxes or fees received by the State (in €)

394 600 000

10) Annual approved public budget allocated to the whole justice system, in €(this global budget does not include only the court system as defined under question 6, but also the prison system, the judicial protection of juveniles, the operation of the Ministry of Justice, etc.)

NA 10 866 000 000

11) Please indicate the budgetary elements that are included in the whole justice system. If "other", please specify in the "comment" box below.

Court system	Yes
Legal aid	Yes
Public prosecution services	Yes
Prison system	Yes
Probation services	Yes
Council of the judiciary	No
Judicial protection of juveniles	No
Functioning of the Ministry of Justice	Yes
Refugees and asylum seekers services	No
Other	No

Comment :

12) Annual approved public budget allocated to legal aid, in €- If one or several data are not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP.

	Total annual approved public budget allocated to legal aid (12.1 + 12.2)	12.1 Annual public budget allocated to legal aid in criminal law cases	12.2 Annual public budget allocated to legal aid in non criminal law cases
Amount (in €)	2521000000	1344000000	1177000000

13) Total annual approved public budget allocated to the public prosecution services (in €). Please indicate in the "comment" box below any useful information to explain the figures provided.

Amount 755 810 000

Comment :

This figure does not include Capital, and is for England and Wales only. (Capital in this context means spending on capital items such as land, buildings, plant and machinery which will be used by the business in more than one financial year and which will be shown on the balance sheet as fixed assets.) Other Government Departments and local authorities may undertake public prosecutions in certain specific cases, usually regulatory offences, but the above figure represents the vast majority of approved public budget allocated for public prosecutions.

14) Authorities formally responsible for the budgets allocated to the courts (multiple options possible) :

	Preparation of the total court budget	Adoption of the total court budget	Management and allocation of the budget among the individual courts	Evaluation of the use of the budget at a national level
Ministry of Justice	Yes	Yes	Yes	Yes
Other ministry	No	No	No	No
Parliament	No	No	No	No
Supreme Court	No	No	No	No
Judicial Council	No	No	No	No
Courts	No	No	No	No
Inspection body	No	No	No	No
Other	No	No	No	No

15) If any other Ministry and/or inspection body and/or other, please specify (considering question 14):

NA

A.2

You can indicate below:

- any useful comments for interpreting the data mentioned in this chapter

- **the characteristics of your budgetary system and the main reforms that have been implemented over the last two years**
- **if available an organisation scheme with a description of the competencies of the different authorities responsible for the budget process**

Q6#2#6 : The figures given is what is set out in the MoJ report. As a general point, the MoJ has been rationalising its spending plans and has been closing a few courts and ensuring new investment fits in with general spending constraints.

Q6#2#8 : The figures reflect current Government priorities.

Q12 : There is no separate budget for legal aid; funding is provided from within the overall Departmental Expenditure Limit, which covers all departmental expenditure such as the administration of the courts, tribunals, prisons etc. The figure provided sets out the annual spend in Legal aid expenditure.

cf. CN 18/07 (Q12): 2.4 - The comment on legal aid figures for UK England and Wales should state " Since the previous evaluation cycle, UK England and Wales has updated their legal aid budget figures to correct figures which were incorrectly made available to CEPEJ in the last cycle".

Please indicate the sources for answering the questions 6, 9, 10, 11, 12 and 13.

2. Access to Justice and to all courts

2. 1. Legal aid

2. 1. 1. Principles

16) Does legal aid apply to:

	Criminal cases	Other than criminal cases
Representation in court	Yes	Yes
Legal advice	Yes	Yes

17) Does legal aid include the coverage of or the exemption from court fees?

Yes

No

If yes, please specify:

A legally aided person would have the court fees covered by legal aid.

18) Can legal aid be granted for the fees that are related to the enforcement of judicial decisions (e.g. fees of an enforcement agent)?

Yes

No

If yes, please specify:

19) Can legal aid be granted for other costs (different from questions 16 to 18, e.g. fees of technical advisors or experts, costs of other legal professionals (notaries), travel costs etc ? If yes, please specify it in the "comment" box below).

	Criminal cases	Other than criminal cases
	Yes	Yes

Comment :

The Ministry of Justice has recently implemented 2 sets of maximum rates for criminal and Civil legal aid expert witness fees, which can only be exceeded in exceptional circumstances.

20) Number of cases referred to the court and for which legal aid has been granted. Please specify in the "comment" box below, when appropriate. If data is not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP.

[This question concerns only the annual number of cases for which legal aid has been granted to those referring a case to a court. It does not concern legal advice provided for cases that are not brought before the court.]

	Number
Total	710000
in criminal cases	561000
other than criminal cases	149000

Comment :

In criminal cases - 430,000 (magistrates' courts) 131,000 (crown courts)

Other than criminal cases - 149000 civil courts

21) In criminal cases, can individuals who do not have sufficient financial means be assisted by a free of charge (or financed by a public budget) lawyer? Please specify in the "comment" box below.

Accused individuals	Yes
Victims	No

Comment :

In accused individual's (defendant's) case this is subject to financial (means) and interest of justice (merits) tests conducted by the Legal Services Commission, .

In the victim's case, funding is usually available from Her Majesty's Courts Service.

22) If yes, are individuals free to choose their lawyer within the framework of the legal aid system

Yes

No

23) Does your country have an income and assets evaluation for granting legal aid to the applicant ?

Please provide in the "comment" box below any information to explain the figures provided.

If you have such a system but no data available, please indicate NA. If you do not have such a system, please indicate NAP.

	amount of annual income (if possible for one person) in €	amount of assets in €
for criminal cases	NA	NA
for other than criminal cases?	NA	NA

Comment :

Criminal legal aid – magistrates' court: Where an applicant's weighted gross annual income is €26246 or more, they will be financially ineligible for a grant of representation; where an applicant's weighted gross annual income is €14666 or less, they will be financially eligible for a grant of representation.

For those applicants whose adjusted gross annual incomes fall between the two thresholds, a more detailed assessment of their income is carried out.

This provides for deductions in respect of income tax, national insurance, council tax, as well as actual housing, childcare and maintenance costs, and an allowance for living expenses. If as a result of these calculations, the applicant's disposable income does not exceed €3995, they will be financially eligible under the new scheme.

Under the new scheme, applicants in receipt of income support, income-based jobseeker's allowance, income-related employment and support allowance or the guaranteed state pension credit are automatically deemed financially eligible, as are applicants under the age of 18.

Criminal legal aid – Crown Court:

Using the same weighted scale adopted under the magistrates' court scheme, a Crown Court defendant whose gross annual income is less than €14666 will not be liable to pay a contribution order. Equally, those applicants in receipt of one of the four 'passported' benefits, or under the age of 18, are exempt from paying a contribution order.

If the applicant's gross annual income exceeds €14666 they will be subject to the same more detailed assessment of their income, as used at the magistrates' court.

If the applicant's annual disposable income does not exceed €3995, they are not liable to pay a contribution order.

If the applicant's annual disposable income exceeds this threshold, they will be liable to pay a contribution towards their legal costs.

Civil Legal Aid: Those in receipt of Income Support, income based JobSeeker's Allowance, Guarantee State pension credit or income related Employment and Support Allowance automatically qualify financially for legal aid. Otherwise, they can obtain 'free', or non-contributory assistance, if they have a gross monthly income of less than €3124 a monthly disposable income below €370 and disposable capital of €3527 or less. If their monthly disposable income is between €370 and €62, or disposable capital between €3527 and €9405, they will be offered funding on the basis that they agree to pay contributions towards their legal costs.

24) In other than criminal cases, is it possible to refuse legal aid for lack of merit of the case (for example for frivolous action or no chance of success)?

Yes

No

If yes, please explain the exact criteria for denying legal aid:

An applicant must show that they have reasonable grounds for taking, defending or being a party to proceedings, and that it is reasonable, in the particular circumstances of the case, for legal aid to be granted. The Legal Services Commission must consider, for example, whether the case has a reasonable chance of success, whether the benefits of litigation would outweigh the cost to public funds, and whether the applicant would gain any significant personal benefit from proceeding, bearing in mind any liability to repay the costs if successful. These factors are similar to those that would influence a privately paying client of moderate means when considering whether to become involved in proceedings.

25) Is the decision to grant or refuse legal aid taken by :

- the court?
- an authority external to the court?
- a mixed decision-making authority (court and external bodies)?

26) Is there a private system of legal expense insurance enabling individuals (this does not concern companies or other legal persons) to finance court proceedings?

- Yes
- No

If appropriate, please inform about the current development of such insurances in your country; is it a growing phenomenon?

1) Legal Expenses Insurance such as Before the Event (BTE) insurance generally comes as a subsidiary add-on to some other insurance or service for example motor and home insurance in England and Wales. Most BTE policies carry access to free legal advice by telephone.

It may also be possible to purchase BTE as a stand alone policy. However, the take up of this type of insurance by private individuals in England and Wales has not been as wide as it has been in Germany because most individuals would be unwilling to pay substantial premiums for a stand alone policy. It is unlikely that this type of insurance will flourish in England and Wales.

2) After the event (ATE) insurance was developed in the 1990s. Such insurance covers a litigant against any future liability for the costs of an opposing party. Sometimes ATE can cover for the costs risks, such as liability for own counsel’s fees, expert fees, court fees or other disbursements. The use of ATE increased after conditional fee agreements were first permitted (1995). From April 2000 onwards the use of ATE became widespread as ATE insurance premium were made a recoverable item from the losing side. It is estimated that there are around 36 ATE insurers in England and Wales, offering 54 different products.

ATE insurance is usually taken out by claimants although it is open to defendants as well. However, as defendants are generally more likely to have pre existing insurance and or sufficient resources to contest the claim the take up among defendants is less frequent.

In practice CFAs and ATE go hand in hand in personal injury cases (in particular road traffic accident. However the use of ATE in large commercial cases is relatively rare.

27) Can judicial decisions direct how legal costs, paid by the parties during the procedure, will be shared, in:

criminal cases?	Yes
other than criminal cases?	Yes

B.1

You can indicate below:

- any useful comments for interpreting the data mentioned in this chapter
- the characteristics of your legal aid system and the main reforms that have been implemented over the last two years

16) Representation in Court - Criminal Cases - Yes: Subject to a Financial (means) and Interests of Justice (merits) test conducted by the Legal Services Commission (LSC)

Other than criminal cases -Yes: As long as the matter is within Scope of the Civil legal aid scheme, and the passing of the means and merits tests conducted by the LSC

Legal advice - Criminal Cases - Yes: Free legal advice from solicitor at Police Station during questioning; a duty solicitor to provide free legal advice at magistrates' court.

Other than criminal cases - Yes: Community Legal Advice (CLA) can provide free help or legal advice over the phone. They can help with family, debt, housing, employment, education, welfare benefits and tax credits problems. They will check to see if the enquirer is eligible for legal aid and put them in touch with a specialist legal adviser. If they are not eligible for legal aid, CLA can still put them in touch with organisations that can help.

27) Criminal cases - Where privately funded persons are acquitted, the court would normally direct that they be paid back out of Central Funds – but this would be at the discretion of the court.

Other than criminal cases - The losing party would normally pay, provided that they had funded themselves privately.

Please indicate the sources for answering the questions 20 and 23

2. 2. Users of the courts and victims

2. 2. 1. Rights of the users and victims

28) Are there official internet sites/portals (e.g. Ministry of Justice, etc.) for which the general public may have free of charge access to the following:

The websites mentioned could appear in particular on the internet website of the CEPEJ. Please specify in the "comment" box below what documents and information the addresses for "other documents" include:

- legal texts (e.g. codes, laws, regulations, etc.)? Internet address(es): Yes
- case-law of the higher court/s? Internet address(es): Yes
- other documents (e.g. downloadable forms, online registration)? Yes

Comment :

www.justice.gov.uk holds much of the above information.

www.baillii.org holds judgments for the higher courts

29) Is there an obligation to provide information to the parties concerning the foreseeable timeframes of proceedings?

Yes

No

If yes, please specify:

To the extent that, in criminal proceedings, the court, as part of its case management duties, is obliged to provide information on timescales to the parties. In order to further the "overriding objective" (i.e. "that criminal cases be dealt with justly") the court must, by Criminal Procedure Rule 3.2, manage cases actively. "Active case management", according to CPR 3.2(2)(c) includes "achieving certainty as to what must be done, by whom, and when, in particular by the early setting of a timetable for the progress of the case".

Similarly, in civil proceedings, while the timeframe is often dependent upon matters including the complexity of a particular case, alternative dispute resolution procedures and the involvement and actions of the parties themselves, the court must further the "overriding objective" of the Civil Procedure Rules by "actively managing cases" which, by CPR 1.4(g), includes "fixing timetables or otherwise controlling the progress of the case".

30) Is there a public and free-of-charge specific information system to inform and to help victims of crime?

Yes

No

If yes, please specify:

Help is available from the Victim Support organisation. Victims are entitled to:

- information about how the justice process works. This is provided through leaflets, DVDs, the internet and face-to-face explanations by staff throughout the justice process.
- information about the progress of the investigation, charge, hearings, and trial. This is provided by the police and the Crown Prosecution Service throughout the justice process.

Both of these services are entirely free.

Smaller charities also exist to offer support.

31) Are there special favourable arrangements to be applied, during judicial proceedings, to the following categories of vulnerable persons. If "other vulnerable person" and/or "other special arrangements", please specify it in the "comment" box below.

[This question does not concern the police investigation phase of the procedure and does not concern compensation mechanisms for victims of criminal offences, which are addressed under questions 32 to 34.]

	Information mechanism	Special arrangements in court hearings	Other
Victims of rape	Yes	Yes	No
Victims of terrorism	Yes	Yes	No
Children (witnesses or victims)	Yes	Yes	No
Victims of domestic violence	Yes	Yes	No
Ethnic minorities	Yes	No	No
Disabled persons	Yes	Yes	No
Juvenile offenders	Yes	Yes	No
Other (e.g. victims of human trafficking)	No	No	No

Comment :

Legislation exists to allow for the use of special measures in court to

Provide a safe environment for the victim or witness to give their evidence. Applications for these measures are permitted for what ever type of offence has been committed it is not subject to any of the categories listed above. The use of the special measures does become automatic in certain categories of case, for example with children, rape victims.

32) Does your country allocate compensation for victims of crime?

Yes

No

If yes, for which kind of offences

If an injury has been suffered then a claim can be considered in the criminal courts.

Public fund applies only to victims of violent offences. Court-ordered compensation paid by offenders to victims can apply to any kind of case.

33) If yes, does this compensation consist in:

a public fund?

damages to be paid by the responsible person (decided by a court decision)?

a private fund?

34) Are there studies that evaluate the recovery rate of the damages awarded by courts to victims?

Yes

No

If yes, please inform about the recovery rate, the title of the studies, the frequency of the studies and the coordinating body:

Compensation is not monitored separately from other financial penalties and the recovery rate would be included within the payment rate which covers fines, costs and compensation. It is not possible to identify a recovery rate just for compensation.

35) Do public prosecutors have a specific role with respect to the victims (protection and assistance)?

Yes

No

If yes, please specify:

The Attorney General launched the Prosecutors' Pledge on 21 October 2005. The Pledge is the first document in the public domain that clearly outlines the level of service that victims can expect to receive from prosecutors. The commitments apply to all prosecuting authorities.

The Code of practice for Victims of Crime came into effect on 3 April 2006 and provides for the minimum standards of service victims can expect from all Criminal Justice Agencies. The Code of Practice provides a fast track service for the most vulnerable victims and agencies have a commitment to communicate decisions in these cases within one working day.

The Pledge complements the Victim's Code. There is a direct correlation between five of the Pledge commitments and undertakings and responsibilities articulated in the Code, but the Pledge goes further. The Pledge is applicable to all prosecutors over which the Attorney exercises superintendence and stretches into areas such as charging and the acceptance of pleas which are outside the remit of the Victim's Code but are clearly important to victims.

36) Do victims of crime have the right to dispute a public prosecutor's decision to discontinue a case?

Please verify the consistency of your answer with that of question 105 regarding the possibility for a public prosecutor "to discontinue a case without needing a judicial decision".

Yes

No

NAP (the public prosecutor cannot decide to discontinue a case on his/her own. A judicial decision is needed).

If necessary, please specify:

It is the prosecutor's decision alone to discontinue a case. The judiciary or victims have no part in the decision making process, although victims views are taken into account.

A review of a Crown Prosecution Service (CPS) decision to discontinue a case is treated as a complaint. The definition of a complaint is very wide in that it encompasses any expression of dissatisfaction by an individual who is directly involved in the matter that they are dissatisfied with, so it automatically includes victims who are unhappy with a CPS decision to discontinue a charge.

Complaints about casework decisions follow a line management structure and would, therefore, be escalated to a more senior prosecutor as follows:

i) At stage 1, the complaint would be referred to and the case papers reviewed by the relevant District Crown Prosecutor.

ii) If the complainant remained unhappy following the reply at stage 1, the complaint would be referred to stage 2 and handled by the relevant (Deputy) Chief Crown Prosecutor (who would also review the papers afresh).

iii) If the complainant still remained unhappy following the reply at stage 2, their complaint would be referred to the Correspondence Unit. Where complaints relate to casework decisions that have not been reviewed outside the local Area, the papers are usually referred to another senior prosecutor within the Service (usually another (Deputy) Chief Crown prosecutor) for further review.

At all stages of the complaints procedure, the CPS will consider all the papers afresh, and address each concern raised by the complainant in full.

In addition, a decision by the CPS to prosecute or not to prosecute may be judicially reviewed. If an application for judicial review is successful, the court will direct the CPS to reconsider its position.

2. 2. 2. Confidence of citizens in their justice system

37) Is there a system for compensating users in the following circumstances:

- excessive length of proceedings?
- non execution of court decisions?
- wrongful arrest?
- wrongful condemnation?

Where appropriate, please give details on the compensation procedure, the number of cases, the result of the procedures and the existing mechanism for calculating the compensation (e.g. the amount per day for unjustified detentions or convictions):

Any formal proceedings would need to be commenced by the aggrieved person bringing a civil order for damages. The criminal court cannot award costs against itself for the benefit of an individual.

38) Does your country have surveys aimed at legal professionals and court users to measure their trust and/or satisfaction with the services delivered by the judicial system? (multiple options possible)

- (Satisfaction) surveys aimed at judges
- (Satisfaction) surveys aimed at court staff
- (Satisfaction) surveys aimed at public prosecutors
- (Satisfaction) surveys aimed at lawyers
- (Satisfaction) surveys aimed at the parties
- (Satisfaction) surveys aimed at other court users (e.g. jurors, witnesses, experts, interpreters, representatives of governmental agencies)
- (Satisfaction) surveys aimed at victims

If possible, please specify their titles, object and websites where they can be consulted:

Surveys have not been specifically tailored to the judicial system; however views may have been expressed and collated in the following surveys.

Her Majesty's Court Service (HMCS) Court User Survey – a contracted annual programme of exit interviews to test user experience and capture satisfaction levels of a range of public and professional courts users, which concluded in 2010.

HMCS Crown Court Juror Survey 2010 - a subsidiary of the main court user survey conducted by mailing self completion questionnaires to those who had completed their jury service to test their experience and satisfaction of the jury process. Both surveys were managed by Ipsos Mori on behalf of the former HMCS, the reports for 2010 can be found at

[.http://webarchive.nationalarchives.gov.uk/+/http://www.justice.gov.uk/publications/hmcsusersurvey.htm](http://webarchive.nationalarchives.gov.uk/+/http://www.justice.gov.uk/publications/hmcsusersurvey.htm)

Witness and Victim Experience Survey (WAVES) – Ministry of Justice (MoJ) contracted annual programme of quarterly telephone surveys which examines victims' and witnesses' experiences of the Criminal Justice System on a national level. Managed by Ipsos Mori on behalf of MOJ, information and published data can be found at <http://sitesearch.justice.gov.uk.openobjects.com/kb5/justice/justice/results.page?ha=&qt=witness+and+victim+survey+%28waves%29>

39) If possible, please specify:

	Surveys at a regular interval (for example annual)	Occasional surveys
Surveys at national level	Yes	No
Surveys at court level	Yes	No

40) Is there a national or local procedure for making complaints about the functioning of the judicial system (for example the treatment of a case by a judge or the duration of a proceeding)?

- Yes
- No

41) Please specify which authority is responsible for dealing with such complaints and inform whether there is or not a time limit to respond and/or a time limit for dealing with the complaint (multiple options

possible). Please give information concerning the efficiency of this complaint procedure in the "comment" box below.

	Time limit to respond (e.g. to acknowledge receipt of the complaint, to provide information on the follow-up to be given to the complaint, etc.)	Time limit for dealing with the complaint	No time limits
Court concerned	No	Yes	No
Higher court	No	Yes	No
Ministry of Justice	No	Yes	No
High Council of the Judiciary	No	No	No
Other external bodies (e.g. Ombudsman)	No	No	No

Comment :

Any person dissatisfied with the service received, including a delay to their case may lodge a complaint with the local court/office or the centre based Complaints, Correspondence and Litigation Team (formerly known as the Complaint Handling and Enquiries Team in Her Majesty's Court Service(HMCS), who will investigate it on behalf of the complainant. The central team also act as first tier for the review process.

A party affected by a judicial decision may have recourse to the relevant appeal process for the business jurisdiction. Complaints about judicial behaviour are sent to the Office for Judicial Complaints (OJC). If a complainant is not satisfied with the response from the OJC they can ask the Judicial Appointments and Conduct Ombudsman to consider whether there was maladministration by the OJC.

Time limit for dealing with the complaint:

Court concerned - 10 working days

Higher Court - 10 working days

Ministry of Justice - 15 working days

3. Organisation of the court system

3. 1. Functioning

3. 1. 1. Courts

42) Number of courts considered as legal entities (administrative structures) and geographic locations. If data is not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP.

	Total number
42.1 First instance courts of general jurisdiction (legal entities)	627
42.2 First instance specialised Courts (legal entities)	627
42.3 All the Courts (geographic locations) (this includes 1st instance courts of general jurisdiction, first instance specialised courts, all second instance courts and courts of appeal and all supreme courts)	630

43) Number (legal entities) of first instance specialised courts (or specific judicial order). If "other specialised 1st instance courts", please specify it in the "comment" box below. If data is not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP.

Total (must be the same as the data given under question 42.2)	627
Commercial courts	NA
Labour courts	NA
Family courts	NA
Rent and tenancies courts	NA
Enforcement of criminal sanctions courts	NA
Administrative courts	NA
Insurance and / or social welfare courts	NA
Military courts	NA
Other specialised 1st instance courts	NA

Comment :

Total 627 -

219 Country Courts - The County Court, often referred to as the small claims court, deals with civil matters such as: Claims for debt repayment, including enforcing court orders and return of goods bought on credit
Personal injury

Breach of contract concerning goods or property

Family issues such as relationship breakdown or adoption

Housing disputes, including mortgage and council rent arrears and re-possession

The High Court deals with higher level civil disputes

330 Magistrates Courts - Magistrates' courts are a key part of the criminal justice system and 97% of cases are completed there. In addition, magistrates' courts deal with many civil cases e.g. anti-social behaviour, public health and are responsible for the enforcement of fines and community punishments.

Where cases require a penalty greater than magistrates' sentencing powers, cases will be sent to the Crown Court.

77 Crown Courts in court centres - the Crown Court deals with more serious criminal cases such as murder, rape or robbery, some of which are on appeal or referred from magistrates' courts. Trials are heard by a Judge and a 12 person jury. Members of the public are selected for jury service or may have to go to court as witnesses. Crown Court cases originate from magistrates' courts.

The Crown Court also hears appeals against decisions of magistrate's courts.

At the end of December 2011, 79 Magistrates' Courts and 42 Country Courts closed.

Q42 : The entry of 627 courts under the specialised 1st instance court heading counts the same courts considered as 1st instance courts of general jurisdictions.

44) Is there a foreseen change in the structure of courts [for example a reduction of the number of courts (geographic locations) or a change in the powers of courts]?

Yes

No

If yes, please specify:

A full consultation on court estate reform took place in 2010. Following this, the decision was made to close 93 magistrates' courts and 49 county courts to enable Her Majesty's Court Service to achieve a more efficient service delivery to the public. Focusing upon people resolving their disputes using alternative methods which give faster solutions that are flexible to people's needs, making better use of technology, using the internet, telephone and video systems in our work effectively. 21 courts are still to be closed.

45) Number of first instance courts (geographic locations) competent for the following cases. If data is not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP.

	Number of courts
a debt collection for small claims	219
a dismissal	NA
a robbery	77

Please give the definition for small claims and indicate the monetary value of a small claim:

There are three routes, called tracks (small claims track, fast track and multi-track):

Small claims track – generally for lower value and less complex claims with a value of up to £5,000 (although there are some exceptions).

Fast track – claims with a value of between £5,000 and £25,000.

Multi-track – very complex claims with a value of £25,000 or more.

Please indicate the sources for answering questions 42, 43 and 45:

FURTHER INFORMATION

42) Figures as of March 2011

42.1 and 42.2) 330 Magistrates Courts

219 County Courts

High Court

77 Crown Courts in court centres across 7 regions in England and Wales; London, South West, South East, North West, North East, Midlands, Wales

42.3) Includes Court of Appeal - Criminal Appeals and Civil Appeals, and The Supreme Court

45) 'a dismissal' - meant as to 'strike out a case' then all courts that hear a case have the jurisdiction to dismiss those claims

'a robbery' - 77 Crown Courts in court centres

3. 1. 2. Judges and non-judge staff

46) Number of professional judges sitting in courts (if possible on 31 December 2010) (please give the information in full-time equivalent and for permanent posts actually filled for all types of courts - general jurisdiction and specialised courts). If data is not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP.

Please provide in the "comment" box below any useful comment for interpreting the data above.

[Please make sure that public prosecutors and their staff are excluded from the following figures (they will be part of questions 55-60). If a distinction between staff attached to judges and staff attached to prosecutors cannot be made, please indicate it clearly.]

Please indicate the number of posts that are actually filled at the date of reference and not the theoretical budgetary posts.]

	Total	Males	Females
Total number of professional judges (1 + 2 + 3)	1984	1521	463
1. Number of first instance professional judges	NA	NA	NA
2. Number of second instance (court of appeal) professional judges	NA	NA	NA
3. Number of supreme court professional judges	NA	NA	NA

Comment :

England and Wales judiciary are not referred to as first instance or second instance judges, and it is not clear that 'Supreme Court' here is intended to mean the same thing as in England and Wales/the UK.

47) Number of court presidents (professional judges). If data is not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP.

	Total	Males	Females
Total number of court presidents (1 + 2 + 3)	NAP	NAP	NAP
1. Number of first instance court presidents	NAP	NAP	NAP
2. Number of second instance (court of appeal) court presidents	NAP	NAP	NAP
3. Number of supreme court presidents	NAP	NAP	NAP

48) Number of professional judges sitting in courts on an occasional basis and who are paid as such (if possible on 31 December 2010). If necessary, please provide in the "comment" box below any information to explain the answer under question 48.

Gross figure Yes 7 432
 If possible, in full-time equivalent Yes

Comment :

This is the total of fee paid judicial office holders (some of whom will have held more than one fee paid post, and some who will also have had a mix of fee paid and salaried work).

49) Number of non-professional judges who are not remunerated but who can possibly receive a simple defrayal of costs (if possible on 31 December 2010) (e.g. lay judges and "juges consulaires", but not arbitrators and persons sitting in a jury).

Gross figure Yes 27 118

50) Does your judicial system include trial by jury with the participation of citizens?

Yes
 No

If yes, for which type of case(s)?
 Criminal, civil and coroner cases

51) Number of citizens who were involved in such juries for the year of reference:

181 281

52) Number of non-judge staff who are working in courts for judges (if possible on 31 December 2010) (this data should not include the staff working for public prosecutors; see question 60) (please give the information in full-time equivalent and for permanent posts actually filled). If "other non-judge staff", please specify it in the "comment" box below.

Total non-judge staff working in courts (1 + 2

+ 3 + 4 + 5)	NA
1. Rechtspfleger (or similar bodies) with judicial or quasi-judicial tasks having autonomous competence and whose decisions could be subject to appeal	NA
2. Non-judge staff whose task is to assist the judges (case file preparation, assistance during the hearing, court recording, helping to draft the decisions) such as registrars	NA
3. Staff in charge of different administrative tasks and of the management of the courts (human resources management, material and equipment management, including computer systems, financial and budgetary management, training management)	NA
4. Technical staff	NA
5. Other non-judge staff	NA

Comment :

Her Majesty's Courts and Tribunals Service (HMCTS) was created on 1st April 2011, unable to provide specific numbers for the categories above. On 30th October 2011 the numbers of staff employed by HMCTS was 19 535,46 full time equivalent.

53) If there are Rechtspfleger (or similar bodies) in your judicial system, please describe briefly their status and duties:

NA

54) Have the courts delegated certain services, which fall within their powers, to private providers (e.g. IT services, training of staff, security, archives, cleaning)?

Yes

No

If yes, please specify:

- IT Services
- Court Security
- Transportation of Prisoners
- Electronic tagging
- Magistrates courts fine enforcement
- Provision of court interpreters
- Cleaning and catering services

C.1

You can indicate below:

- any useful comments for interpreting the data mentioned in this chapter
- the characteristics of your judicial system and the main reforms that have been implemented over the last two years

Please indicate the sources for answering questions 46, 47, 48, 49 and 52

3. 1. 3. Public prosecutors and staff

55) Number of public prosecutors (if possible on 31 December 2010) (please give the information in full-time equivalent and for permanent posts actually filled, for all types of courts – ordinary and specialised jurisdictions). If data is not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP. Please provide in the "comment" box below any useful information for interpreting the data.

	Total	Males	Females
Total number of prosecutors (1 + 2 + 3)	2 866	NA	NA
1. Number of prosecutors at first instance level	2 866	NA	NA
2. Number of prosecutors at second	986	NA	NA

instance (court of appeal) level			
3. Number of prosecutors at supreme court level	NA	NA	NA

Comment :

The total figure of Prosecutors is the number (full time equivalent FTE) of legally qualified Crown Prosecution Service prosecutors of all levels at 31st March 2011 (i.e. qualified lawyers) All prosecutors in the Crown Prosecution Service have rights of audience in the lower courts (1st instance level) regardless of their grade. Higher rights of audience allow specific prosecutors to appear both at the second instance (Court of Appeal and Crown Court) level and the Supreme Court level. While these Prosecutors have the same rights to appear at both the higher levels, in practice deployment is based upon levels of skill and experience.

For the purposes of this response, the second instance court includes the Crown Court in addition to the Court of Appeal.

56) Number of heads of prosecution offices. If data is not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP. Please provide in the "comment" box below any useful information for interpreting the data.

	Total	Males	Females
Total number of heads of prosecution offices (1 + 2 + 3)	59	NA	NA
1. Number of heads of prosecution offices at first instance level	59	NA	NA
2. Number of heads of prosecution offices at second instance (court of appeal) level	59	NA	NA
3. Number of heads of prosecution offices at supreme court level	NA	NA	NA

Comment :

The Crown Prosecution Service is structured into 13 geographical Areas and 3 specialist Casework Groups. Chief Crown Prosecutors (CCPs) are the Heads of Areas and the equivalent Directors for the Casework Groups. Each regional Area/Casework Division may have cases that fall under the jurisdiction of any of the three specified levels of Court instance. The numbers here show the total number of Chief Crown Prosecutors and Deputy Chief Crown Prosecutors in post at the 31 March 2011 (expressed as full-time employees (FTE)). This also includes the Heads of Casework Divisions (at both Chief Crown Prosecutor and Senior Civil Service level).

For the purposes of this response, the second instance of court includes the Crown Court in addition to the Court of Appeal

Q56#1#1 : The number of Chief Crown Prosecutors and Deputy Chief Crown Prosecutors in post that cover both the offices at first instance and second level. They cover cases that fall under the jurisdiction of the specified levels of Court instance (1 and 2). Therefore, the figures should not be added.

57) Do other persons have similar duties to public prosecutors?

Yes

No

Number (full-time equivalent)

426

58) If yes, please specify their title and function:

The Crown Prosecution Service employs 426 Associate Prosecutors with limited powers in the lower courts to undertake simple trials and non-contentious cases. Associate Prosecutors have the rights of audience of a Crown Prosecutor to conduct routine cases in the magistrates' court (i.e. the lowest level court, at first instance). They do not however have the same rights as a Crown Prosecutor to institute criminal proceedings or review whether to continue proceedings instituted by the police

59) If yes, is their number included in the number of public prosecutors that you have indicated under question 55?

Yes

No

60) Number of staff (non-public prosecutors) attached to the public prosecution service (if possible on 31 December 2010) (without the number of non-judge staff, see question 52) (in full-time equivalent and for permanent posts actually filled).

Number

 Yes

4 793

C.2

You can indicate below:

- any useful comments for interpreting the data mentioned in this chapter
- the characteristics of your judicial system and the main reforms that have been implemented over the last two years

60) These are non-legally qualified staff employed in administrative roles and include casework and paralegal staff who assist Prosecutors in the administration and preparation of cases.

Numbers are expressed under the specification used in the Quarterly Public Sector Employment Survey as submitted to the Office for National Statistics and are correct as at 31st March 2010. The data is expressed as FTE but rounded to nearest whole number.

Please indicate the sources for answering questions 55, 56 and 60

Staff numbers are taken from the internal Human Resource database used by the Crown Prosecution Service and are prepared in accordance with the specification of the Quarterly Public Sector Employment Survey.

3. 1. 4. Court budget and new technologies

61) Who is entrusted with responsibilities related to the budget within the court? If "other", please specify it in the "comment" box below.

	Preparation of the budget	Arbitration and allocation	Day to day management of the budget	Evaluation and control of the use of the budget
Management Board	No	Yes	No	Yes
Court President	No	No	No	No
Court administrative director	No	No	No	No
Head of the court clerk office	No	No	No	No
Other	Yes	No	Yes	Yes

Comment :

Other: Relates to Delivery Directors, Regional Heads of Finance and Finance Staff

62) For direct assistance to the judge/court clerk, what are the computer facilities used within the courts?

Word processing	100% of courts
Electronic data base of jurisprudence	100% of courts
Electronic files	100% of courts
E-mail	100% of courts
Internet connection	100% of courts

63) For administration and management, what are the computer facilities used within the courts?

Case registration system	100% of courts
Court management information system	100% of courts
Financial information system	100% of courts
Videoconferencing	+50% of courts

64) For the electronic communication and exchange of information between the courts and their environment, what are the computer facilities used by the courts?

Electronic web forms	100% of courts
Website	100% of courts
Follow-up of cases online	0 % of courts
Electronic registers	0 % of courts
Electronic processing of small claims	100% of courts
Electronic processing of undisputed debt recovery	0 % of courts
Electronic submission of claims	100% of courts
Videoconferencing	+50% of courts
Other electronic communication facilities	0 % of courts

65) The use of videoconferencing in the courts (details on question 65). Please indicate in the "comment" box below any clarification on the legal framework and the development of videoconferencing in your country.

	65.1 In criminal cases, do courts or prosecution offices use videoconferencing for hearings in the presence of defendants or witnesses?	65.2 Can such court hearing be held in the police station and/or in the prison?	65.3 Is there any specific legislation on the conditions for using videoconferencing in the courts / prosecution offices, especially in order to protect the rights of the defence?	65.4 Is videoconferencing used in other than criminal cases?
	Yes	Yes	No	Yes

Comment :

65.2) This is being rolled out via the Live Link - Police officers will be able to submit evidence

65.3) Video evidence is often used in court but its down to the decision of the Judge if it is accepted, this applies to civil and criminal cases

65.4) Video evidence is often used in court but its down to the decision of the Judge if it is accepted, this applies to civil and criminal cases

C.3

You can indicate below:

- any useful comments for interpreting the data mentioned in this chapter

- the characteristics of your judicial system and the main reforms that has been implemented over the last two years

We have just invested in a general ICT infrastructure renewal project across the court estate. This will help support a general shift towards digital by default for all services, citizen focused online systems, reduction in the number of local systems and a shift to video conferencing. These changes support a rapidly changing court system including a significant reduction in court numbers.

There are approximately 60 different case management systems used within the English court system. We use an application called Exhibit/Crest to manage English Court Cases, but for the follow-up of cases online there is no single online case management system in use across the English court system.

3. 2. Performance and evaluation

3. 2. 1. Performance and evaluation

66) Is there a centralised institution that is responsible for collecting statistical data regarding the functioning of the courts and judiciary?

Yes

No

If yes, please indicate the name and the address of this institution:

Her Majesty's Courts and Tribunals Service - 102 Petty France, London, SW1H 9AJ

67) Are individual courts required to prepare an annual activity report (that includes, for example, data on the number of cases processed or pending cases, the number of judges and administrative staff, targets and assessment of the activity)?

Yes No**68) Do you have, within the courts, a regular monitoring system of court activities concerning:**

The monitoring system aims to assess the day-to-day activity of the courts (namely, what the courts produce) thanks in particular to data collections and statistical analysis (see also questions 80 and 81). number of incoming cases? number of decisions delivered? number of postponed cases? length of proceedings (timeframes)? other?

If other, please specify:

Not all activities are measured in all Jurisdictions

Crown – Incoming Cases, Decisions, Ineffective, Cracked Trials, Timeliness

Magistrates – Completed Cases & Timeliness

69) Do you have a system to evaluate regularly the activity (in terms of performance and output) of each court?

The evaluation system refers to the performance of the court systems with prospective concerns, using indicators and targets. The evaluation may be of more qualitative nature (see questions 69-77). It does not refer to the evaluation of the overall (good) functioning of the court (see question 82). Yes No

Please specify:

Monthly Performance reports

In and End Year review Process

70) Concerning court activities, have you defined performance and quality indicators (if no, please skip to question 72) Yes No**71) Please select the 4 main performance and quality indicators that have been defined:** incoming cases length of proceedings (timeframes) closed cases pending cases and backlogs productivity of judges and court staff percentage of cases that are processed by a single sitting judge enforcement of penal decisions satisfaction of court staff satisfaction of users (regarding the services delivered by the courts) judicial quality and organisational quality of the courts costs of the judicial procedures other:

If other, please specify:

Different Jurisdictions measure different performance indicators

Incoming cases is not available in the Magistrates Courts

72) Are there quantitative performance targets (for instance a number of cases to be addressed in a

month) defined for each judge?

- Yes
 No

73) Who is responsible for setting the targets for each judge?

- executive power (for example the ministry of Justice)?
 legislative power
 judicial power (for example a High Judicial Council or a Higher Court)
 other

If other, please specify:

Joint Department & Judicial Agreement

74) Are there performance targets defined at the level of the court (if no please skip to question 77)?

- Yes
 No

75) Who is responsible for setting the targets for the courts?:

- executive power (for example the ministry of Justice)?
 legislative power
 judicial power (for example a High Judicial Council, Higher Court)
 other

If other, please specify:

Targets are set at Area level by a joint Department/Judicial agreement

76) Please specify the main targets applied to the courts:

Targets for 2010-11

- 78% of cases commenced within target in the Crown Court
- Charged cases, average time taken from charge to disposal in the magistrates' courts – less than 6 weeks (new Key Performance Indicator - KPI)
- Time taken to produce and send court results to the police:
- 95% court registers produced and despatched within 3 working days
- 100% court registers produced and despatched within 6 working days
- Payment rate for financial penalties in the magistrates' court – 85%
- 60% of all Community Penalties to be resolved within 25 working days of the relevant failure to comply
- To increase the proportion of defended small claims that are completed otherwise than by final hearing to 65%
- To increase the proportion of defended small claims that are completed (from issue to final hearing) within a target time of 30 weeks to at least 70%
- The percentage of Care and Supervision cases that achieve a final outcome for the child; a combined county court and family proceedings court target of 26% in 30 weeks; 66% in 50 weeks and 92% in 80 weeks

77) Who is responsible for evaluating the performance of the courts (see questions 69 to 76)? (multiple options possible)

- High Council of judiciary
 Ministry of justice
 inspection authority
 Supreme Court
 external audit body
 other

If other, please specify:

78) Are quality standards determined for the whole judicial system (are there quality systems for the judiciary and/or judicial quality policies)?

- Yes
 No

If yes, please specify:

There are appraisal schemes in operation for magistrates, deputy district judges (magistrates' courts), deputy district judges in the civil courts and most judges in the Tribunals Service. These schemes are judicially led. Currently, there are no appraisal schemes for salaried judges in the courts. However, judicial appraisal is undertaken informally in a number of courts.

79) Do you have specialised court staff that is entrusted with these quality standards?

- Yes
 No

80) Do you monitor backlogs and cases that are not processed within a reasonable timeframe for:

- in civil law cases
 in criminal law cases
 in administrative law cases

81) Do you monitor waiting time during court procedures?

- Yes
 No

If yes, please specify:

Timelines are measured in Crown, Magistrates and County Courts

82) Is there a system to evaluate the overall (smooth) functioning of courts on the basis of an evaluation plan (plan of visits) agreed beforehand?

This question does not concern the specific evaluation of performance indicators.

- Yes
 No

Please specify the frequency of the evaluation:

In and end year reviews at Region will look at Court level data where appropriate.

83) Is there a system for monitoring and evaluating the performance of the public prosecution service?

- Yes
 No

If yes, please give further details:

Further details provided below -

C.4

You can indicate below:

- any useful comments for interpreting the data mentioned in this chapter
- the characteristics of your court monitoring and evaluation systems

83) UNABLE TO ENTER INFORMATION IN ALLOCATED AREA - Internally, the Chief Operating Officer holds each of the 13 Chief Crown Prosecutors and 3 Heads of Casework Directorates to account for their performance on a quarterly basis across a range of measures covering the prosecution business. This is supported by managers dip sampling 18,000 cases across the organisation each year holding a review of the handling of the case against elements of our Core Quality Standards.

Her Majesty's Crown Prosecution Service Inspectorate is an independent body that reviews the operation of individual Areas of the prosecution service and conducts also thematic reviews and audits (for example, asset recovery, discharged committals and equality and diversity).

4. Fair trial

4. 1. Principles

4. 1. 1. General information

84) Percentage of first instance criminal in absentia judgments (cases in which the suspect is not attending the hearing in person nor represented by a legal professional)?

NA

85) Is there a procedure to effectively challenge a judge if a party considers that the judge is not impartial?

Yes

No

If possible, number of successful challenges (in a year):

86) Number of cases regarding Article 6 of the European Convention of Human Rights on duration and non-execution. If data is not available, please indicate NA.

	Cases declared inadmissible by the Court	Friendly settlements	Judgements establishing a violation	Judgements establishing a non violation
Civil proceedings - Article 6§1 (duration)	NA	NA	NA	NA
Civil proceedings - Article 6§1 (non-execution)	NA	NA	NA	NA
Criminal proceedings - Article 6§1 (duration)	NA	NA	NA	NA

Please indicate the sources:

D.1

You can indicate below any useful comments for interpreting the data mentioned in this chapter

85) Criminal proceedings:

In the magistrates' courts where there is alleged bias the decision of the court is liable to be quashed through the High Court issuing a quashing order upon an application for judicial review. However, the issue of such an order is discretionary. If a party knew of an objection to a justice before commencement of proceedings but failed to ask him to withdraw, the order may be refused.

For matters relating to trial on indictment in the Crown Court any alleged bias on the part of the trial judge may be raised on appeal to the Court of Appeal, to show that the conviction was unsafe.

4. 2. Timeframes of proceedings

4. 2. 1. General information

87) Are there specific procedures for urgent matters as regards:

civil cases?

criminal cases?

administrative cases?

there is no specific procedure

If yes, please specify:

Criminal Cases - Applications can be made to a single justice of the peace out of court hours if necessary for example for police search warrant

Civil Courts and Administrative Court Cases – Yes. The Civil Procedure Rules (CPR) are rules of the court, which govern practice and procedure in the High Court, county courts and civil division of the Court of Appeal. The rules include provisions for individuals to bring urgent applications before the court if necessary. Examples of urgent applications may include applying for a stay in proceedings, payment of monies out of court and injunctions. Urgent applications should ordinarily be made within court hours. However, the courts are aware this may not always be possible; provisions are in place for Judges to be contacted out of hours and/or via telephone. To obtain an order under these circumstances there must in all cases be a real and justified urgency which will not wait proper notice, for example seeking an order to freeze assets

88) Are there simplified procedures for:

- civil cases (small disputes)?
- criminal cases (small offences)?
- administrative cases?
- there is no simplified procedure

If yes, please specify:

Criminal cases – Yes. While no new laws have been introduced, procedures in magistrates' court have been streamlined within the existing legal framework, by the Criminal Justice: Simple, Speedy, Summary (CJSSS) initiative.

Civil Courts and Administrative Court Cases – Yes. The overriding objective of the Civil Procedure Rules (CPR) is to enable the court to deal with cases justly. This includes ensuring that the parties are on an equal footing; saving expense; dealing with the case in ways which are proportionate to the amount of money involved; to the importance of the case and the complexity of the issues.

The small claims track provides a simple and informal way of resolving disputes. Claimants should be able to do this without a solicitor. A Small Claims Mediation Service is a free service set up to help court users who currently have an ongoing small claims case. However, since mediation is a voluntary process, it should be noted that mediation will only take place if both (all) parties agree. Mediation is less formal than a hearing before a judge. It is confidential, can be quicker, and can reduce the build up of costs, and if you are in an ongoing relationship with the other party or parties, a mediation agreement can provide for a more positive relationship in the future. Mediation also gives parties the opportunity to concentrate on the real issues of the case, which may be in addition to, or even different from, the legal issues. Parties may come to an agreement, which may include an explanation or an apology, which is something that a court could not order. The Small Claims Mediator is able to settle the majority of disputes over the telephone without the need for either party to attend court. Alternatively, if you prefer, a face-to-face mediation may be able to be arranged on court premises. If you feel uneasy about meeting or speaking to the other side in the dispute, the mediator can make special arrangements to prevent this happening. In the event mediation is unsuccessful the case may proceed to hearing before the court.

89) Do courts and lawyers have the possibility to conclude agreements on arrangements for processing cases (presentation of files, decisions on timeframes for lawyers to submit their conclusions and on dates of hearings)?

- Yes
- No

If yes, please specify:

Criminal Cases – Yes. The Criminal Procedure Rules require courts to manage cases by taking action to ensure that cases progress and are ready for trial. The courts have powers to direct the parties where necessary to take various actions. The courts are required to set a trial date and set a timetable for actions to be completed before the trial, to monitor progress and to ensure the parties comply with any directions given by the court. Each party and the court should nominate an individual responsible for progressing the case.

Civil Courts and Administrative Court cases – Yes. The Civil Procedure Rules also give the courts case management powers so as to ensure cases are dealt with in a timely and effective manner. The rules provide that active case management includes: encouraging parties to co-operate with each other; identifying issues at an early stage; deciding promptly which issues need full investigation and trial; deciding the order in which issues are to be resolved; encouraging parties to use alternative dispute resolution e.g. mediation where appropriate.

4. 2. 2. Caseflow management and timeframes of judicial proceedings

90) Comment:

The national correspondents are invited to pay special attention to the quality of the answers to questions 91 to 102 regarding case flow management and timeframes of judicial proceedings. The CEPEJ agreed that the subsequent data would be processed and published only if answers from a significant number of member states – taking into account the data presented in the previous report – are given, enabling a useful comparison between the systems.

91) First instance courts: number of other than criminal cases. If data is not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP.

Note 1: cases mentioned in categories 3 to 5 (enforcement, land registry, business register) should be presented separately in the table. Cases mentioned in category 6 (administrative law) should also be separately mentioned for the countries which have specialised administrative courts or separate administrative law procedures or are able to distinguish in another way between administrative law cases and civil law cases.

Note 2: check if the figures submitted are (horizontally and vertically) consistent. Horizontal consistent data means: "(pending cases on 1 January 2010 + incoming cases) – resolved cases" should give the correct number of pending cases on 31 December 2010. Vertical consistency of data means that the sum of the individual case categories 1 to 7 should reflect the total number of other than criminal law cases.

	Pending cases on 1 Jan. '10	Incoming cases	Resolved cases	Pending cases on 31 Dec. '10
Total of other than criminal law cases (1+2+3+4+5+6+7)*	NA	1 960 251	NA	NA
1. Civil (and commercial) litigious cases (if feasible without administrative law cases, see category 6)*	NA	290 941	NA	NA
2. Civil (and commercial) non-litigious cases, e.g. uncontested payment orders, request for a change of name, etc. (if feasible without administrative law cases; without enforcement cases, registration cases and other cases, see categories 3-7)*	NA	1 262 509	NA	NA
3. Enforcement cases	NA	21 457	NA	NA
4. Land registry cases**	NAP	NAP	NAP	NAP
5. Business register cases**	NAP	NAP	NAP	NAP
6. Administrative law cases (litigious and non-litigious)	NAP	NAP	NAP	NAP
7. Other cases (e.g. insolvency registry cases)	NA	385 344	332 589	NA

92) If courts deal with "civil (and commercial) non-litigious cases", please indicate the case categories included:

All civil (and commercial) cases (in Judicial and Court Statistics 2010 Tables 1.1, 5.1 and 6.1, and Court Statistics Quarterly table 1.2) minus the number of incoming defences (in Judicial and Court Statistics 2010 Tables 1.10)

Judicial and Court Statistics, 2010

<http://www.justice.gov.uk/downloads/publications/statistics-and-data/courts-and-sentencing/judicial-court-stats.pdf>

Court Statistics Quarterly

<http://www.justice.gov.uk/publications/statistics-and-data/courts-and-sentencing/judicial-quarterly.htm>

93) If "other cases", please indicate the case categories included:

Figures for family courts are included in the total OTHER (305,116 incoming cases, 332,589 resolved cases) along with insolvency cases (80,228 incoming, resolved NA). Note that pending figures are not published and internal figures are for certain types of work only so not supplied.

94) First instance courts: number of criminal law cases. If data is not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP.

Note: please check if the figures submitted are (horizontally and vertically) consistent. Horizontal

consistent data means that: "(pending cases on 1 January 2010 + incoming cases) – resolved cases" should give the correct number of pending cases on 31 December 2010. Vertical consistency of data means that the sum of the categories 8 and 9 for criminal cases should reflect the total number of criminal cases.

	Pending cases on 1 Jan. '10	Incoming cases	Resolved cases	Pending cases on 31 Dec. '10
Total criminal cases (8+9)	NA	NA	1 936 831	NA
8. Criminal cases (severe criminal offences)	44 490	138 516	139 831	43 059
9. Misdemeanour and / or minor offences cases	NA	NA	1 797 000	NA

95) The classification of cases between severe criminal cases and misdemeanour and/or minor criminal cases may be difficult. Some countries might have other ways of addressing misdemeanour offences (for example via administrative law procedures).

Please indicate, if feasible, what case categories are included under "severe criminal cases" and the cases included under "misdemeanour and /or minor criminal cases".

Severe criminal cases will include the following:

- Indictable only offences are the most serious offences, such as murder and sexual assault and must be heard at the Crown Court. The involvement of the magistrates' is usually brief before the case is passed to the Crown.
- Triable either way offences are more serious than summary offences, but less serious than indictable only offences. These cases can be dealt with either by magistrates' or before a judge and jury at the Crown Court. Such offences will include dangerous driving and theft and handling stolen goods.

Misdemeanour and/or minor offences will including the following:

- Both indictable/triable either way cases start in magistrates' courts and are sent to the Crown. Therefore, under section 9, misdemeanour cases are defined as all those cases heard in the magistrates' court.
- Summary cases are offences which are less serious, such as motoring offences, minor assaults and criminal damage. These cases are usually dealt with entirely in magistrates' courts.
- Adult breach proceedings are proceedings against a defendant (aged 18 or over) who has breached an order previously imposed against them.
- Youth proceedings are proceedings of any type involving a defendant aged between 10 and 17. These cases are recorded in minor offences for the purpose of this form, but could contain a small number of severe criminal cases.

96) Comments on questions 91 to 95. You can indicate, for instance, the specific situation in your country, give explanations on NA or NAP answers or explain the calculation of the total number of other than criminal law cases or differences in horizontal consistency, etc.

Non-criminal matters

Unless otherwise noted below, all figures provided on non-criminal matters include civil (non-family) cases in the county courts and High Court but not magistrates courts.

- Contested claims (Civil (and commercial) litigious cases) - note civil court cases can be finalised without court knowledge so no pending figures can be provided.
- The 290,941 given for incoming Civil (and commercial) litigious cases is actually the number of incoming defences in the county courts.
- The 21,457 enforcement figure (in Judicial and Court Statistics 2010 Table 1.5) includes that in the county courts of Tribunal awards and orders made in Magistrates' courts.

Criminal matters

(Q94):

- Data is available in the above table for completed proceedings only. There is no information available from magistrates' ("first instance courts") on pending or incoming cases.
- Pending cases for section 8 on 1st Jan 2010 corresponds to the number of outstanding cases from 2009 from Judicial and Court Statistics (JCS) 2010 table 4.1. The figure for pending cases on 31 Dec 2010 is the number of outstanding cases from 2010 from JCS 2010 table 4.1.
- Incoming cases for section 8 are receipts which include committals direct from the magistrates court, bench warrants executed (trial and sentence only) and cases transferred in, less cases transferred out. See JCS 2010 table 4.1.
- Resolved cases for section 8 are the total number of cases disposed of during the stated period.
- Cases defined as misdemeanour or minor offences are those cases which go through the magistrates' court. As some of the more serious offences (indictable and some triable either way cases) will later be sent to the Crown Court for trial, the total figures may include double-counting.

97) Second instance courts: total number of "other than criminal law" cases. If data is not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP.

Note: the total of "other than criminal" cases includes all of the following categories (categories 1 to 7).

	Pending cases on 1 Jan. '10	Incoming cases	Resolved cases	Pending cases on 31 Dec. '10
Total of other than criminal law cases (1+2+3+4+5+6+7)	NA	32 432	32 933	NA
1. Civil (and commercial) litigious cases (if feasible without administrative law cases, see category 6)*	NA	3 353	3 181	NA
2. Civil (and commercial) non-litigious cases, e.g. uncontested payment orders, request for a change of name, etc. (if feasible without administrative law cases; without enforcement cases, registration cases and other cases, see categories 3-7)*	NAP	NAP	NAP	NAP
3. Enforcement cases	NAP	NAP	NAP	NAP
4. Land registry cases	NAP	1	3	NA
5. Business register cases	NA	16 027	20 082	NA
6. Administrative law cases (litigious and non-litigious)	NA	13 007	9 634	NA
7. Other cases (e.g. insolvency registry cases)	NA	44	33	NA

98) Second instance courts: total number of criminal law cases. If data is not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP.

	Pending cases on 1 Jan. '10	Incoming cases	Resolved cases	Pending cases on 31 Dec. '10
Total criminal cases (8+9)	NA	21 269	NA	NA
8. Criminal cases (Severe criminal offences)	NA	7 250	NA	NA
9. Misdemeanour and/or minor offences cases	2 854	14 019	14 008	2 873

Comment :

Severe criminal cases are those cases dealt with at the Crown Court which were appealed at the Court of Appeal.

Misdemeanour/minor offences are those cases dealt with initially at the magistrates' court, but sent for appeal at the Crown Court.

99) Highest instance courts: total number of "other than criminal law" cases. If data is not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP.

Note: the total of "other than criminal law cases" includes all of the following categories (categories 1 to 7).

	Pending cases on 1 Jan. '10	Incoming cases	Resolved cases	Pending cases on 31 Dec. '10
Total of other than criminal law cases (1+2+3+4+5+6+7)	NA	50	46	NA
1. Civil (and commercial) litigious cases (if feasible without administrative law cases, see category 6)	NA	50	39	NA
2. Civil (and commercial) non-litigious cases, e.g. uncontested payment orders, request for a change of name, etc. (if feasible without administrative law cases; without enforcement cases, registration cases and other cases, see categories 3-7)	NA	0	0	NA
3. Enforcement cases	NA	NAP	NAP	NA
4. Land registry cases	NA	NA	2	NA
5. Business register cases	NA	NA	2	NA

6. Administrative law cases (litigious and non-litigious)	NA	NA	0	NA
7. Other cases (e.g. insolvency registry cases)	NA	NA	3	NA

100) Highest instance courts: total number of criminal law cases. If data is not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP.

	Pending cases on 1 Jan. '10	Incoming cases	Resolved cases	Pending cases on 31 Dec. '10
Total criminal cases (8+9)	NA	10	5	NA
8. Criminal cases (severe criminal offences)	NA	10	5	NA
9. Misdemeanour cases (minor offences)	NA	0	0	NA

Comment :

Includes Court of Appeal and High Court in England and Wales.

101) Number of litigious divorce cases, employment dismissal cases, robbery cases and intentional homicide cases received and processed by first instance courts. If data is not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP.

	Pending cases on 1 Jan. '10	Incoming cases	Resolved cases	Pending cases on 31 Jan. '10
Litigious divorce cases	NA	133 499	121 265	NA
Employment dismissal cases	NAP	NAP	NAP	NAP
Robbery cases	NA	NA	13 704	NA
Intentional homicide	NA	NA	631	NA

102) Average length of proceedings, in days (from the date the application for judicial review is lodged). If data is not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP.

[The average length of proceedings has to be calculated from the date the application for judicial review is lodged to the date the judgment is made, without taking into account the enforcement procedure. New: the question concerns first, second and third instance proceedings.]

	% of decisions subject to appeal	% pending cases more than 3 years	Average length in 1st instance (in days)	Average length in 2nd instance (in days)	Average length in 3rd instance (in days)	Average total length of the total procedure (in days)
Litigious divorce cases	NA	3.1	219	NA	NA	NA
Employment dismissal cases	NAP	NAP	NAP	NAP	NAP	NAP
Robbery cases	NA	NA	174	NA	NA	NA
Intentional homicide	NA	NA	NA	NA	NA	NA

103) Where appropriate, please inform about the specific procedure as regards divorce cases (litigious and non-litigious):

Notes on 101 and 102

(a) Litigious divorce cases

- Incoming cases - This is the number of petitions filed for dissolution of marriage or dissolution of civil partnership during 2010.
- Resolved cases - This is the number of decree absolutes (divorces granted) in dissolution of marriage or dissolution of civil partnership cases during 2010. It excludes cases where the couple reconcile and decide not to go ahead with the divorce or cases where the divorce was refused.
- % Pending over 3 Years - This is the percentage of dissolution of marriage and dissolution of civil partnership cases, where a decree absolute was made during 2010, where the time between petition and decree absolute was over 1095 (365 x3) days.
- Average length in the 1st instance (days) - This is the median number of days from petition to decree absolute for dissolution of marriage and dissolution of civil partnership cases where decree absolutes were made in 2010.

(b) Robbery cases

- The figure above of 174 days in the average time from offence to completion across both the magistrates and Crown Courts.
- Data is not provided for intentional homicide, as the figures cannot be broken down to this level of detail. However,

for information the average time from offence to completion for violence against the person cases (which would include intentional homicide) is 162 days.

- Data includes all cases concluded in either the magistrates' courts or Crown Court during the specified time period and excludes cases completed in the magistrates' courts but not completed in the Crown Court.
- Only one offence is counted for each defendant in the case. If two or more cases complete on the same day, the case with the longest duration is included.
- Excludes breaches and cases with an offence to completion time greater than ten years.

104) How is the length of proceedings calculated for the four case categories? Please give a description of the calculation method.

(a) Litigious divorce cases

See notes on 101 and 102 above.

(b) Robbery cases

The statistics measure the overall offence to completion time in the criminal courts. "Offence to completion time" refers to the time taken between the date an offence is committed and date of the final outcome (completion) of the defendant's case, in either the magistrates' courts or the Crown Court. For defendants whose case is sent or committed to the Crown Court, these statistics measure the entire duration from offence to completion in the Crown Court, including the time the case was initially dealt with in the magistrates' courts before being passed to the Crown Court. Data is also available on the time between the date of the first hearing in the magistrates' court, also known as the first listing, and the date a case was completed in the magistrates' courts, and this relates to the time taken to conclude the case in court.

105) Role and powers of the public prosecutor in the criminal procedure (multiple options possible):

- to conduct or supervise police investigation
- to conduct investigations
- when necessary, to demand investigation measures from the judge
- to charge
- to present the case in the court
- to propose a sentence to the judge
- to appeal
- to supervise enforcement procedure
- to discontinue a case without requiring a judicial decision (ensure consistency with question 36!)
- to end the case by imposing or negotiating a penalty or measure without requiring a judicial decision
- other significant powers

If "other significant powers", please specify:

The right to apply to the Court of Appeal for an order quashing the original acquittal and reordering a retrial in the most serious "qualifying offences". This is commonly referred to as the "double jeopardy" rule and a prosecutor may only make an application with the written consent of the Director of Public Prosecutions (DPP) who may give his consent only if certain conditions apply. The Court of Appeal will allow the application, and order a retrial in limited defined circumstances.

When something untoward arises in court, that a judge considers may need investigation, the judge can refer the matter to the DPP who has the power to refer it to the police for investigation.

106) Does the public prosecutor also have a role in civil and/or administrative cases?

- Yes
- No

If yes, please specify:

For matters not related to the trial on indictment the Crown Prosecution Service (CPS) is subject to Judicial Review in the Crown Court. Furthermore the CPS could be party to civil proceedings if it were sued.

107) Case proceedings managed by the public prosecutor: total number of 1st instance criminal cases. If data is not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP.

	Received by the public prosecutor	Cases discontinued by the public prosecutor (see 108 below)	Cases concluded by a penalty or a measure imposed or negotiated by the public prosecutor	Cases charged by the public prosecutor before the courts
Total number of 1st instance criminal cases	1 067 974	95 731	NAP	967 494

108) Total cases which were discontinued by the public prosecutor. If data is not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP.

	Number
Total cases which were discontinued by the public prosecutor (1+2+3)	95 731
1. Discontinued by the public prosecutor because the offender could not be identified	4 141
2. Discontinued by the public prosecutor due to the lack of an established offence or a specific legal situation	NA
3. Discontinued by the public prosecutor for reasons of opportunity	NA

109) Do the figures include traffic offence cases?

Yes

No

D.2

You can indicate below:

any useful comments for interpreting the data mentioned in this chapter

the characteristics of your system concerning timeframes of proceedings and the main reforms that have been implemented over the last two years

Q100#3#1 : In 2010 there were fewer cases resolved than commenced; in 2008 there were more cases resolved than commenced. The decrease is 13 cases only.

107 and 108 : PLEASE SEE BOX BELOW FOR FURTHER INFORMATION AS THIS COULD NOT BE ADDED IN THIS SECTION

Please indicate the sources for answering the questions 91, 94, 97, 98, 99, 100, 101, 102, 107 and 108.

97) Source - Judicial and Court Statistics Tables 7.6 to 7.15

99) Source - Judicial and Court Statistics Tables 7.4 to 7.5

107-109) Source - The Crown Prosecution Service Compass Management Information System

107) FURTHER EXPLANATORY INFORMATION -

The figure for receipts represents the number of defendants whose case was received by the Crown Prosecution Service (CPS) post charge.

Crown Prosecutors do not impose or negotiate penalties; these can only be imposed by the courts after a finding of guilt.

Charged by the public prosecutor before the courts represents the number of defendants prosecuted by the CPS whose case was completed during the year.

108) FURTHER INFORMATION

Discontinued by the public prosecutor because the offender could not be identified represents the number of defendants whose case was dropped by the CPS post-charge because identification evidence was found to be unreliable or was missing.

Lack of an established offence or a specific legal situation and reason of opportunity cannot be directly equated with CPS analyses.

Cases dropped by the CPS are recorded under the following explanatory categories:

Dropped on evidential considerations: 48,501

Dropped for public interest reasons: 21,784

Dropped because a prosecution was unable to proceed (e.g. because a witness failed to attend court): 19,561

Dropped for other reasons: 5,885

5. Career of judges and public prosecutors

5. 1. Recrutement and promotion

5. 1. 1. Recrutement and promotion

110) How are judges recruited?

- Mainly through a competitive exam (for instance, following a university degree in law)
- Mainly through a recruitment procedure for legal professionals with long-time working experience in the legal field (for example lawyers)
- A combination of both (competitive exam and working experience)
- Other

If other, please specify:

111) Authority(ies) in charge: are judges initially/at the beginning of their carrier recruited and nominated by:

[This question strictly concerns the authority entrusted with the decision to recruit (not the authority formally responsible for the nomination if different from the former)].

- An authority made up of judges only?
- An authority made up of non-judges only?
- An authority made up of judges and non-judges?

Please indicate the name of the authority(ies) involved in the whole procedure of recruitment and nomination of judges. If there are several authorities, please describe their respective roles:

The Judicial Appointments Commission

112) Is the same authority competent for the promotion of judges?

- Yes
- No

If no, which authority is competent for the promotion of judges ?

113) Which procedures and criteria are used for promoting judges? Please specify.

Stage 1: Application

Advertising and outreach - Most positions are advertised widely in the national press, legal publications, the professional press and online. The Judicial Appointments Commission (JAC) runs road-shows and other outreach events designed to explain the selection system to potential applicants and to encourage them to consider a judicial career. The JAC also works with a range of key interested parties to disseminate information about specific appointments and about the judicial appointments process in general.

Application form and information pack - The application form is tailored for each individual selection exercise. Alongside the form, an information pack is available to applicants, which includes details of the eligibility criteria and guidance on the application process. This too is tailored for each exercise.

Both documents can be downloaded from the JAC's website or are sent out to candidates on request. The criteria for selection are included in the candidate information material and on the JAC website. The qualities and abilities against which all candidates will be assessed are:

Qualities and Abilities – Generic

1. Intellectual capacity

- High level of expertise in your chosen area or profession
- Ability quickly to absorb and analyse information
- Appropriate knowledge of the law and its underlying principles, or the ability to acquire this knowledge where necessary.

2. Personal qualities

- Integrity and independence of mind
 - Sound judgement
 - Decisiveness
 - Objectivity
 - Ability and willingness to learn and develop professionally
 - Ability to work constructively with others.
3. An ability to understand and deal fairly
- An awareness of the diversity of the communities which the courts and tribunals serve and an understanding of differing needs
 - Commitment to justice, independence, public service and fair treatment
 - Willingness to listen with patience and courtesy.
4. Authority and communication skills
- Ability to explain the procedure and any decisions reached clearly and succinctly to all those involved
 - Ability to inspire respect and confidence
 - Ability to maintain authority when challenged.
5. Efficiency
- Ability to work at speed and under pressure
 - Ability to organise time effectively and produce clear reasoned judgments expeditiously.
- (including leadership and managerial skills where appropriate)

Qualities and Abilities - (Where there are Leadership and Management Responsibilities)

1. Intellectual Capacity

- High level of expertise in your chosen area or profession
- Ability quickly to absorb and analyse information
- Appropriate knowledge of the law and its underlying principles, or the ability to acquire this knowledge where necessary.

2. Personal Qualities

- Integrity and independence of mind
 - Sound judgement
 - Decisiveness
 - Objectivity
 - Ability and willingness to learn and develop professionally
 - Ability to work constructively with others.
3. An ability to understand and deal fairly
- An awareness of the diversity of the communities which the courts and tribunals serve and an understanding of differing needs
 - Commitment to justice, independence, public service and fair treatment
 - Willingness to listen with patience and courtesy.
4. Authority and Communication Skills
- Ability to explain the procedure and any decisions reached clearly and succinctly to all those involved
 - Ability to inspire respect and confidence
 - Ability to maintain authority when challenged.
5. Leadership and Management Skills
- Ability to form strategic objectives and to provide leadership to implement them effectively
 - Ability to motivate, support and encourage the professional development for whom you are responsible
 - Ability to engage constructively with judicial colleagues and the administration, and to manage change effectively
 - Ability to organise own and others time and manage available resources.

Eligibility checks and good character - Once JAC has received a completed application form, we check each candidate's eligibility for the post. As required by the Constitutional Reform Act 2005 (CRA), the JAC also makes an assessment of the good character of each candidate.

Stage 2: Assessment

References - Candidates are asked on their application form to nominate up to three referees normally, or in some cases six. The JAC may also seek references from a list of Commission-nominated referees, which is published for each selection exercise. The time at which references are sought will depend on the assessment method used for short-listing:

- If a qualifying test is used, references are taken up after the qualifying test and before interviews take place.
- If a paper sift is used, references are taken up before the sift and used to make the short-listing decisions.

In all cases, references will form part of the information that JAC uses to make final selection recommendations to the Lord Chancellor.

Short-listing - Short-listing may be done on the basis of qualifying tests or paper sift, using the application form and references. For senior appointments, where candidates will usually have an extensive track record, short-listing will normally be done on information supplied by the candidate and from references.

Interviews and selection days - The next stage of the assessment will vary depending on the nature of the post to be filled. Candidates might be asked to attend a selection day, which may entail a combination of role-plays and an interview. For some specialist and the most senior appointments, there might be only a panel interview.

Panel reports - Panel members assess all the information about each candidate, prepare reports on their findings and agree which candidates best meet the required abilities.

Statutory Consultation - As required under section 88(3) and 94(3) of the CRA, the panel's reports on candidates

likely to be considered by the Commission are sent to the Lord Chief Justice and another person who has held the post, or has relevant experience.

Stage 3: Selection and Recommendation

Recommendation to the Lord Chancellor - The Commissioners consider all the information gathered on the candidates and select candidates to be recommended to the Lord Chancellor for appointment.

Final checks - For existing judicial office holders, the JAC checks with the Office for Judicial Complaints (OJC) that there are no complaints outstanding against them. For all other candidates recommended for appointment, a series of good character checks are done with the Police, Her Majesty's Revenue and Customs and relevant professional bodies.

The Lord Chancellor may also require candidates to undergo a medical assessment before their appointment is confirmed.

Footnote:

Appointments for the Lord Chief Justice, Heads of Division (Master of the Rolls, President of the Queen's Bench, President of the Family Division, Chancellor of the High Court) and Lord Justices of Appeal are governed by ss.67-75 and ss.76-84 of the CRA, and are made on the basis of selection by a specially constituted selection panel of the JAC.

Appointments to the Supreme Court (President, Deputy President and judges of the Supreme Court) are governed by ss.25-31 of the CRA, and are made on the basis of selection by a Supreme Court Selection Commission governed by Schedule 8 of the CRA.

Stage 4: Appointment

The JAC, or selection panel, recommend to the Lord Chancellor one candidate for each vacancy. Through a transparent, three-stage process, the Lord Chancellor can accept, ask for a reconsideration of, or reject recommendations. He/ she is required to provide his/ her reasons to the Commission in the case of any requests for reconsideration or rejections. Although, if the JAC still put forward the same candidates, the Lord Chancellor ultimately must accept the recommendation. The power to reject, or seek reconsideration, is a very limited one. He/ she cannot select alternative candidates to those advanced by the JAC, or selection panel.

Once the Lord Chancellor has approved the selection, the candidate is then formally appointed. The Lord Chancellor makes a considerable number of appointments himself/ herself, while The Queen makes certain senior appointments, on the advice of the Lord Chancellor (or in the case of the most senior judiciary the Prime Minister). The Queen plays an important role in the appointments process from a constitutional perspective, because although only the more senior judges, and Recorders, are appointed by The Queen formally rather than by the Lord Chancellor, all judges swear an oath of allegiance to the Crown. Under the British constitution, all jurisdiction derives from the Crown, and the administration of justice is carried out by members of the judiciary acting in The Queen's name, and deriving their authority from the Crown.

114) Is there a system of qualitative individual assessment of the judges' activity?

- Yes
 No

115) Is the status of prosecution services:

- Indépendant?
 Under the authority of the Minister of justice ?
 Other?

Please specify:

116) How are public prosecutors recruited?

- Mainly through a competitive exam (for instance, following a university degree in law)
 Mainly through a recruitment procedure for legal professionals with long-time working experience in the legal field (for example lawyers)
 A combination of both (competitive exam and working experience)
 Other

If "other", please specify:

117) Authority(ies) in charge: are public prosecutors initially/at the beginning of their carrier recruited by:

[This question concerns the authority entrusted with the responsibility to recruit only (not the authority formally responsible for the nomination if different from the former).]

- An authority composed of public prosecutors only?
 An authority composed of non-public prosecutors only?
 An authority composed of public prosecutors and non-public prosecutors?

Please indicate the name of the authority(ies) involved in the whole procedure of recruitment and nomination of public prosecutors. If there are several authorities, please describe their respective roles:

The Crown Prosecution Service (CPS) is responsible for its own recruitment procedure within civil service guidelines to ensure fair and open competition. The Head of the CPS, the Director of Public Prosecutions, is a fixed term appointment made by the Attorney General according to published criteria

118) Is the same authority formally responsible for the promotion of public prosecutors?

- Yes
 No

If no, please specify which authority is competent for promoting public prosecutors:

119) Which procedures and criteria are used for promoting public prosecutors? Please specify:

The Crown Prosecution Service (CPS) promotes its prosecutors on merit via fair and open competition and is audited annually to ensure it adheres to these principles.

External vacancies are advertised on the CPS corporate website in addition to specialist legal publications such as the "Bar Council" magazine and "Law Society Gazette". Applicants are required to possess a valid practicing certificate issued by the respective professional governing body, dependent upon whether they are a barrister or solicitor.

Trained interview panels will typically assess applicants for both its external and internal legal vacancies via a short list exercise on written applications with those meeting the standard being invited to an interview and often an assessment exercise, normally in the form of a legal case study upon which applicants are required to present to the panel their findings.

The procedures for promoting prosecutors are the same as the CPS recruitment procedures, in terms of how promotion opportunities are advertised to and how candidates for promotion are assessed by an interview panel.

120) Is there a system of qualitative individual assessment of the public prosecutors' activity?

- Yes
 No

121) Are judges appointed to office for an undetermined period (i.e. "for life" = until the official age of retirement)?

- Yes
 No

If yes, are there exceptions? (e.g. dismissal as a disciplinary sanction)? Please specify:

11.25 table – Terms of office of judges and prosecutors in 2010 -

For judges, the UK England and Wales response should be Yes – Undetermined, with comments - Judges may be removed from office by the Lord Chancellor, with the concurrence of the Lord Chief Justice, on grounds of misbehaviour or inability to perform the duties of the office. Such decisions are taken in accordance with the procedures contained in the Judicial Discipline (Prescribed Procedures) Regulations 2006.

11.25 table Terms of office of judges and prosecutors. For judges Renewable length should be – NAP

122) If there is a probation period for judges (e.g. before being appointed "for life"), how long is this period? If the situation is not applicable in your country, please indicate NAP.

	Duration of probation period (in years)
	NAP

123) Are public prosecutors appointed to office for an undetermined period (i.e. "for life" = until the official age of retirement)?

- Yes
 No

If yes, are there exceptions (e.g. dismissal as a disciplinary sanction)? Please specify:
 From a Senior Staffing Unit perspective, the only senior management position which is time-bound is the DPP. The DPP is on a five year contract which may be renewed thereafter at the sole discretion of the AGO. All other senior management posts are appointed to office for an undetermined period

124) If there is a probation period for public prosecutors, how long is this period? If the situation is not applicable in your country, please indicate NAP.

	Duration of the probation period (in years)
	NA

125) If the mandate for judges is not for an undetermined period (see question 121), is it renewable? What is the length of the mandate (in years)?

- Yes
 No

Please indicate the length of the mandate in years:

126) If the mandate for public prosecutors is not for an undetermined period (see question 123), is it renewable? What is the length of the mandate (in years)?

NAP

E.1

You can indicate below:

- any useful comments for interpreting the data mentioned in this chapter
- the characteristics of the selection and nomination procedure of judges and prosecutors and the main reforms that have been implemented over the last two years

115) UNABLE TO INPUT ADDITIONAL INFORMATION - The Crown Prosecution Service (CPS) is a non-Ministerial department that was created by the Prosecution of Offences Act 1985 as the principal public prosecuting authority for England and Wales, and is headed by the Director of Public Prosecutions, Keir Starmer QC. The CPS is independent of the police and is responsible for taking prosecuting decisions on cases referred by the police.

122) Whilst there is no formal probation period for judges, The Lord Chancellor has agreed that one of the key non-statutory eligibility criteria for those applying for salaried judicial posts is that they should normally be expected to have previous fee-paid judicial experience: "The Lord Chancellor expects that candidates for salaried posts will have sufficient directly relevant previous judicial experience. Only in exceptional cases and if the candidate in question has demonstrated the necessary skills in some other significant way should an exception be made."

124) 6 months

125) Since 1993, it has been the policy of successive Lord Chancellors that judicial office holders should not sit beyond the age of 70. This is set out in various pieces of legislation including, in particular, section 26 of the Judicial Pensions and Retirement Act of 1993 (JUPRA) for the officeholders specified in Schedule 5 to that Act, and sections 12(2) and 13(1) of the Courts Act of 2003 for magistrates in England and Wales (but not Scotland / Northern Ireland). For other judicial office-holders this is set out in their Terms and Conditions – for instance the Memorandum on conditions of appointment and terms of service for fee paid members of the Tribunals Service, which came into effect in April 2010.

For a diminishing number of judicial office-holders appointed prior to the commencement of JUPRA (31 March, 1995) the mandatory retirement age is broadly speaking the completed year of service in which the judicial office holder

reaches the age of 72 or at age 75, depending on the office held – honouring commitments made already to those in office (a transitional provision in JUPRA providing for this commitment).

Exceptionally, where the Lord Chief Justice, Senior President or other appropriate judicial authority considers it desirable in the public interest, he/she may, with the concurrence of the Lord Chancellor, extend or re-extend an office holder's service for a period not exceeding one year at a time and not extending beyond the date on which the office holder attains the age of 75. In these exceptional circumstances 'public interest' is interpreted to mean that a clear business need has been identified. The usual requirement is that any final decisions with regard to potential extensions need to be made before the judicial office-holders in question have reached their retirement date.

Fee-paid judicial office holders are initially appointed for a set period – usually 5 years – renewable automatically, subject to the upper age limit.

The Lord Chancellor may remove a judicial office holder on the grounds of inability or misbehaviour.

5. 2. Training

5. 2. 1. Training

127) Training of judges

Initial training (e.g. attend a judicial school, traineeship in the court)	Compulsory
General in-service training	Compulsory
In-service training for specialised judicial functions (e.g. judge for economic or administrative issues)	Compulsory
In-service training for management functions of the court (e.g. court president)	Compulsory
In-service training for the use of computer facilities in courts	Optional

128) Frequency of the in-service training of judges:

General in-service training	Annual
In-service training for specialised judicial functions (e.g. judge for economic or administrative issues)	Regular (e.g. every 3 months)
In-service training for management functions of the court (e.g. court president)	Occasional (e.g. at times)
In-service training for the use of computer facilities in courts	Occasional (e.g. at times)

129) Training of public prosecutors

Initial training	Compulsory
General in-service training	Compulsory
In-service training for specialised functions (e.g. public prosecutor specialised on organised crime)	Compulsory
In-service training for management functions of the court (e.g. Head of prosecution office, manager)	Compulsory
In-service training for the use of computer facilities in office	Compulsory

130) Frequency of the in-service training of public prosecutors

General in-service training	Annual
In-service training for specialised functions (e.g. public prosecutor specialised on organised crime)	Regular (e.g. every 3 months)
In-service training for management functions of the court (e.g. Head of prosecution office, manager)	Regular (e.g. every 3 months)
In-service training for the use of computer facilities in office	Occasional (e.g. at times)

131) Do you have public training institutions for judges and / or prosecutors? If yes, please indicate in the "comment" box below the budget of such institution(s).

If your judicial training institutions do not correspond to these criteria, please specify it.

	Initial training only	Continuous training only	Initial and continuous training
One institution for judges	No	No	Yes
One institution for prosecutors	No	No	Yes
One single institution for both judges and prosecutors	No	No	No

Comment :

E.2

You can indicate below:

- any useful comments for interpreting the data mentioned in this chapter
- comments regarding the attention given in the curricula to the European Convention on Human Rights and the case law of the Court
- the characteristics of your training system for judges and prosecutors and the main reforms that has been implemented over the last two years

Judicial College provides induction seminars which forms part of an induction process which includes sitting-in, initial supervised sittings and a mentoring scheme. The Judicial College provides continuation training through a Prospectus whereby judges select the training most suitable to their needs.

In-service training for management functions of the court (e.g. court president) is currently being considered and developed.

Frequency of the in-service training of public prosecutors -

General in-service training Yearly as part annual Professional Development requirements of solicitors, barristers and associate prosecutors. Delivered through a combination of self managed learning, E learning through the Prosecution College, and coaching and mentoring.

In-service specialised training Regularly by way of E learning targeted at particular requirements of specialists. Cyber Crime has been trained this year by way of a face to face course, Intellectual property and Communications data e learning courses have been added this year to prosecution college modules

In-service management training Management and Leadership training Courses are available through the Prosecution College, and mentoring and coaching is encouraged to raise the skill levels of managers at performance management; all e learning is available through the internet and can be accessed from home as well as the office.

In-service computer training All users of Case Management Systems are trained by a specialist IT tutor face to face as needed. Transforming Through Technology ("T3") is a new programme to digitise the prosecution process by April 2012. The training for this new development includes general awareness training and specific E-learning packages.

5. 3. Practice of the profession**5. 3. 1. Practice of the profession****132) Salaries of judges and public prosecutors.**

	Gross annual salary in €, on 31 December 2010	Net annual salary in €, on 31 December 2010
First instance professional judge at	120 998	

the beginning of his/her career		
Judge of the Supreme Court or the Highest Appellate Court (please indicate the average salary of a judge at this level, and not the salary of the Court President)	243 190	
Public prosecutor at the beginning of his/her career	33 515	
Public prosecutor of the Supreme Court or the Highest Appellate Instance (please indicate the average salary of a public prosecutor at this level, and not the salary of the Public prosecutor General)	116 325	

Comment :

Net annual salaries would depend on an individual's tax and national insurance position during any particular year.

First instance professional judge at the beginning of his/her career - There are fee paid as well as salaried judges. The figure of 120998 is for judicial salary group 7 (Judicial salaries in 2010/11 ranged from €120998 for salarygroup 7, to €281972 for salary group 1 (Lord Chief Justice), but it is not possible under the England and Wales and UK system to say what a salary would be for a judge at the beginning of their career). London Group 7 posts also attract a London salary lead of €2351 a year and a London Allowance of €2351 a year.

133) Do judges and public prosecutors have the following additional benefits?

	Judges	Public prosecutors
Reduced taxation	No	No
Special pension	Yes	No
Housing	No	No
Other financial benefit	No	No

134) If other financial benefit, please specify:**135) Can judges combine their work with any of the following other functions ?**

	With remuneration	Without remuneration
Teaching	No	No
Research and publication	Yes	Yes
Arbitrator	No	No
Consultant	No	No
Cultural function	No	Yes
Political function	No	No
Other function	Yes	Yes

136) If rules exist in your country (e.g. authorisation needed to perform these activities), please specify. If "other function", please specify.

Rules governing these kinds of 'outside activity' are governed by the Lord Chancellor's terms and conditions for judicial office holders. Whilst there are slight variations in these terms and conditions depending on the office held, these are minimal in this particular area. The following extract comes from the Memorandum on conditions of appointment and terms of service for Circuit Judges:

General principles

Judges must ensure that while holding judicial office they conduct themselves in a manner consistent with the authority and standing of a judge. They must not, in any capacity, engage in any activity which might undermine, or be reasonably thought to undermine, their judicial independence or impartiality. If in any case any question of bias arises, judges should follow the guidance in the decided cases, including the Court of Appeal judgment in *Locabail (UK) Ltd v Bayfield Properties Ltd and Another* (2000) Q.B. 451. Judges may not undertake any other remunerated employment, nor receive or retain any fee or emolument in any circumstances save for royalties earned as an author. They may not undertake any task or engage in any activity which in any way limits their ability to discharge their

judicial duties to the full. They should so conduct their private affairs as to minimise the possibility of conflict or embarrassment. If any doubt arises on the application of these principles, a judge should seek initial guidance from a senior judicial office holder or Head of Division, the Lord Chief Justice or his office.

The following paragraphs provide further guidance on types of interest or activity which are most likely to occur. The guidance is not designed to be exhaustive. If a judge has any doubt about his/her particular interests or the propriety of a particular undertaking, the Judicial Office or a senior judicial office holder will be ready to advise him/her.

Financial interests

There is normally no objection to a judge holding shares in commercial companies. However, there is a long-standing rule that no judge should hold a commercial directorship. This applies to a directorship in any organisation whose primary purpose is profit-related. It applies whether the directorship is in a public or a private company, and whether or not it is remunerated. Any person holding such a directorship is therefore expected to resign from it on appointment to judicial office.

The only exception to this rule is that a judge may take part in the management of family assets, including land or family businesses, and may hold a directorship in a private company for this purpose or in a company formed for the management of flats of which he/she is a tenant. However, caution should be exercised even where companies are solely owned by the judge and his/her family.

Non-commercial directorships

A judge may continue to hold directorships which relate to organisations whose primary purpose is not profit-related, and whose activities are of an uncontroversial character.

Charitable activities

If a judge is involved in charitable activities, including holding the directorship of a charity, he/she should be on his/her guard against circumstances arising which might be seen to cast doubt on his/her judicial impartiality or conflict with his/her judicial office.

Political or other activities

A judge must expect to forgo any kind of political activity and also any other activity which could make undue demands on his/her time. He/she should be on his/her guard against circumstances arising in which his/her involvement in any outside activity might be seen to cast doubt on his/her judicial impartiality or conflict with his/her judicial office. A judge is also expected to submit his/her resignation to the Lord Chancellor in the event of nomination or adoption as a prospective candidate for election to Parliament, or to the Scottish Parliament, the Welsh Assembly, the Northern Ireland Assembly or the European Parliament.

Termination of professional and business contacts

A judge is expected to terminate all professional and business contacts with his/her former partners and clients and to sever professional connections with his/her former chambers or firm on taking up judicial office save to the extent that such contact is necessary for practical purposes such as the receipt of outstanding fees etc. A judge should also retire from the office of Trustee, where such an appointment arose from a professional or business relationship, if this is likely to be seen to cast doubt on his/her judicial impartiality or conflict with his/her judicial office. In addition, no judge while holding full time judicial office may maintain an office or make use of office facilities in the premises of the partnership, firm or chambers with which he/she was formerly connected and he/she should also bear in mind the need for discretion in the number and frequency of visits he/she makes there even where these are of a social or personal nature.

Appointments to judicial office are intended to be for the remainder of a person's professional life. Judges who accept appointment do so on the understanding that following the termination of their appointment they will not return to private practice as a barrister or a solicitor, and will not:

- a. provide services, on whatever basis, as an advocate (whether by way of oral submissions or written submissions) in any court or tribunal in England and Wales;
- b. in return for remuneration of any kind, offer or provide legal advice to any person.

For the avoidance of doubt, former judges may provide services as an independent arbitrator/mediator and may receive remuneration for lectures, talks or articles. In cases of any doubt, the advice of the Lord Chief Justice should be sought before undertaking any services.

Membership of local Law Societies

Where members of the judiciary are members of local Law Societies, the possibility can arise of embarrassment, or risk of criticism. These possibilities are the greater where they are active members or office-holders of the Society and plainly greater still in smaller towns and cities. Without therefore necessarily precluding a judge's membership of such a Society (particularly where it may be of long standing and have given rise to no difficulty), attention should be drawn to the risks. It is suggested that a judge should accept an invitation to join or continue only if on consideration he/she is quite satisfied that it would not lead to difficulties. In future when a judge joins a local Law Society, it should be on the understanding that he/she cannot take an active part in its functions. However, if a judge has taken and still does take an active part in a local Law Society, and no difficulties have arisen, he/she is not obliged to stand down and the matter is left to his/her discretion.

Lecturing, participation in conferences etc

There is in principle no objection to members of the judiciary speaking on technical legal matters, which are unlikely to be controversial, at lectures and conferences or seminars organised by the Bar or The Law Society, or by academic or other similar non-profit making organisations. Lectures and seminars which deal with matters of more general public interest may, however, raise wider issues of policy, sometimes not immediately apparent. Judges will therefore wish to be cautious about speaking at these. Depending on circumstances, it could also be inappropriate for a judge to accept an invitation to deliver a public lecture or participate in a conference or seminar run by a commercial undertaking.

It is regarded as inappropriate for a judge to receive a fee personally for giving a lecture. However, where a judge

gives a lecture for a commercial undertaking there is no objection, if he/she considers that it would be appropriate, to his/her requesting that any fee otherwise payable be paid to a charity of his/her choice. To avoid any liability for tax, a judge should try to ensure that payment is made direct to the charity. Where this is not possible, e.g. accounting reasons, and the charity would otherwise lose out, a judge may accept the payment himself/herself, provided that he/she is prepared to pay the tax on that sum and make the payment directly to the charity himself/herself. There is no objection to a judge accepting reimbursement of the cost of any necessary travel and accommodation necessitated by attending a suitable lecture, conference or seminar.

Writing books and articles

It is a long-established tradition that the writing of books and articles, academic and technical works, and the editing of legal textbooks are not incompatible with holding judicial office and there is no objection to the acceptance of royalties or fees for doing so. Legal and technical books and articles do not normally give rise to difficulties but it may sometimes be advisable for a judge to avoid writing on a subject of wider or more general public interest. However, the editorship of a commercial legal or technical journal is generally considered incompatible with judicial office, since this involves a regular commitment. Furthermore, journals provide platforms for opinions and, as such, they represent a potential source of avoidable conflict. Editorship of such journals should therefore normally be resigned on appointment; if an exception is sought, reference should be made to the Judicial Office.

Misuse of office, etc

A judge should avoid any action which involves, or may be seen as involving, the exploitation or misuse of his/her judicial position or title for private purposes, e.g. in connection with local planning issues. Members of the judiciary are reminded that the facilities provided at public expense including those for dispatch of correspondence and stationery are provided for use in carrying out official duties and are not intended for personal use/correspondence.

137) Can public prosecutors combine their work with any of the following other functions ?

	With remuneration	Without remuneration
Teaching	No	Yes
Research and publication	Yes	Yes
Arbitrator	Yes	No
Consultant	Yes	No
Cultural function	No	Yes
Political function	No	No
Other function	Yes	Yes

138) Please specify existing rules (e.g. authorisation to perform the whole or a part of these activities). If "other function", please specify:

A Prosecutor is subject to the Civil Service Code which allows him or her to take other work provided it is agreed with managers and does not conflict with the performance or duties of a civil servant; it must not affect their official work because of its nature or bring any conflict of interest or loyalty, nor must it conflict with the interest of the Prosecutors role or damage public confidence in it. Any Judicial role must obey these rules too and not result in any profit to the prosecutor.

Q 137 (figure 11.28) : UK England and Wales response should be amended to be included in the remunerated column. A note should be added that:

Prosecutors may take other work provided they declare their intentions before starting such work, it does not conflict with the performance of their duties and or their role as a civil servant and they have been given permission by the organisation to do so.

Q 137 (Figure 11.29) : UK England and Wales response should be amended to be included in the remunerated column. A note should be added that:

Prosecutors may take other work provided they declare their intentions before starting such work, it does not conflict with the performance of their duties and or their role as a civil servant and they have been given permission by the organisation to do so.

139) Productivity bonuses: do judges receive bonuses based on the fulfilment of quantitative objectives in relation to the delivery of judgments (e.g. number of judgments delivered over a given period of time)?

Yes

No

If yes, please specify the conditions and possibly the amounts:

5. 4. Disciplinary procedures

5. 4. 1. Disciplinary procedures

140) Who is authorised to initiate disciplinary proceedings against judges (multiple options possible)?

- Citizens
- Relevant Court or hierarchical superior
- High Court / Supreme Court
- High Judicial Council
- Disciplinary court or body
- Ombudsman
- Parliament
- Executive power
- Other?
- This is not possible

If "executive power" and/or "other", please specify:

Any individual can bring a complaint against a judicial office holder. The decision to investigate further and therefore initiate disciplinary proceedings rests with the Office for Judicial Complaints which acts on behalf of the Lord Chancellor and Lord Chief Justice. Complaints against tribunal judiciary and magistrates are considered in the first instance by the relevant Tribunal President and Advisory Committee respectively.

141) Who has been authorised to initiate disciplinary proceedings against public prosecutors: (multiple options possible):

- Citizens
- Head of the organisational unit or hierarchical superior public prosecutor
- Prosecutor General /State public prosecutor
- Public prosecutorial Council (and Judicial Council)
- Disciplinary court or body
- Ombudsman
- Professional body
- Executive power
- Other?
- This is not possible

If "executive power" and/or "other", please specify:

Comments to the table 11.38 : There is no specific professional body for prosecutors, however as practising solicitors or barristers they are subject to regulation by the Law Society or Bar Standards Council.

142) Which authority has disciplinary power on judges? (multiple options possible):

- Court
- Higher Court / Supreme Court
- Judicial Council
- Disciplinary court or body
- Ombudsman
- Parliament
- Executive power
- Other?

If "executive power" and/or "other", please specify:

The Lord Chancellor and the Lord Chief Justice for England and Wales have joint responsibility for judicial discipline.

143) Which authority has the disciplinary power on public prosecutors? (multiple options possible):

- Supreme Court
- Head of the organisational unit or hierarchical superior public prosecutor
- Prosecutor General /State public prosecutor
- Public prosecutorial Council (and Judicial Council)
- Disciplinary court or body
- Ombudsman
- Professional body
- Executive power
- Other?

If "executive power" and/or "other", please specify:

144) Number of disciplinary proceedings initiated against judges and public prosecutors. If data is not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP. If "other", please specify it in the "comment" box below.

[If disciplinary proceedings are undertaken because of several mistakes, please count the proceedings only once and for the main mistake.]

	Judges	Public prosecutors
Total number (1+2+3+4)	789	27
1. Breach of professional ethics	28	1
2. Professional inadequacy	NA	13
3. Criminal offence	12	2
4. Other	749	11

Comment :

Judges - The total refers to situations where an "investigation" of some degree was undertaken. It is important to note that the vast majority of these investigations would have consisted of nothing more than listening to a tape of a hearing, concluding that there was no misconduct and then dismissing the complaint.

The bulk of those investigations, falling under "Other", related to inappropriate comments or behaviour.

Figures are for the financial year 2010 – 2011.

3.Criminal Offence Figure is actually for criminal/ civil offences.

Public Prosecutors - Data provided for financial year 1 April 2010 to 31 March 2011 and is based on cases finalised (rather than Initiated) as cases are recorded once there is an outcome.

4. Other includes breaches of internal policies, for example, IT misuse and breach of CPS Code of Conduct. The figure includes 2 Associate Prosecutors

Q144#1#1 : The discrepancy between the 2008 and 2010 data is due to the question being interpreted differently. For the 2008 response the question was interpreted "disciplinary proceedings being initiated" as applying only to those cases where disciplinary action was ultimately taken. Hence the low figure of 59, which is the same as that provided for the "sanctions imposed" response in the same survey, Question 129.

In the 2010 data we have applied a wider definition of what constitutes as disciplinary proceedings being initiated and in response to question 144 have given the figure for all complaints where some investigation was undertaken irrespective of whether the complaint/investigation was then dismissed.

145) Number of sanctions pronounced against judges and public prosecutors. If data is not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP.

If "other", please specify it in the "comment" box below. If a significant difference between the number of disciplinary proceedings and the number of sanctions exists, please indicate the reasons in the "comment" box below.

	Judges	Public prosecutors

Total number (total 1 to 9)	106	23
1. Reprimand	28	22
2. Suspension	NA	NA
3. Removal of cases	NA	NA
4. Fine	NA	NA
5. Temporary reduction of salary	NA	NA
6. Position downgrade	NA	1
7. Transfer to another geographical (court) location	NA	NA
8. Resignation	25	NA
9. Other	53	NA

Comment :

Judges - Of the number provided in "Other": 29 made up removals from office; 11 the issuing of formal advice as to a judge's conduct; 1 a formal warning; and 12 the issuing of guidance about the level of conduct expected.

Figures are for the financial year 2010 – 2011.

Public Prosecutors - Reprimand includes two Associate Prosecutors.

Please note number of finalised cases differs to outcome by 4 as these were "no further actions".

Q145#1#1 : The figure of 106 for the 2010 response are higher mainly because they include cases where a judicial office holder resigned during the disciplinary process and also a number of less formal sanctions such as "guidance being issued" which were not reported on in the 2008-10 response.

E.3

You can indicate below:

- any useful comments for interpreting the data mentioned in this chapter
- the characteristics of your system concerning disciplinary procedures for judges and prosecutors and the main reforms that have been implemented over the last two years

Please indicate the sources for answering questions 144 and 145

Crown Prosecution Services Human Resources

6. Lawyers

6. 1. Status of the profession and training

6. 1. 1. Status of the profession and training

146) Total number of lawyers practising in your country.

165 128

147) Does this figure include "legal advisors" who cannot represent their clients in court (for example, some solicitors or in-house counsellors)?

Yes

No

148) Number of legal advisors who cannot represent their clients in court:

NA

149) Do lawyers have a monopoly on legal representation in (multiple options are possible):

Civil cases?

Criminal cases - Defendant?

Criminal cases - Victim?

Administrative cases?

There is no monopoly

If there is no monopoly, please specify the organisations or persons that may represent a client before a court (for example a NGO, a family member, a trade union, etc) and for which types of cases:

There is no monopoly of representation at the Bar Council- solicitor advocates/legal executives and non-legally qualified people have rights of audience in various circumstances and in respect of all types of cases

150) Is the lawyer profession organised through? (multiple options possible)

a national bar?

a regional bar?

a local bar?

151) Is there a specific initial training and/or examination to enter the profession of lawyer?

Yes

No

If not, please indicate if there are other specific requirements as regards diplomas or university degrees :

152) Is there a mandatory general system for lawyers requiring in-service professional training?

Yes

No

153) Is the specialisation in some legal fields tied with specific training, levels of qualification, specific diploma or specific authorisations?

Yes

No

If yes, please specify:

Individuals wishing to qualify as solicitors must complete the Legal Practice Course (LPC) and then complete a training contract with a law firm. Those wishing to qualify as barristers must complete the Bar Vocational Course (BVC) and also complete a pupillage with a barristers' chambers. Before taking the LPC or BVC, applicants must first complete a qualifying law degree. In addition, those wishing to become legal executives must complete the ILEX Professional Qualification in Law.

Patent attorneys and trademark attorneys are required to have a science, engineering, technology or mathematics degree and must pass the foundation and advanced examination papers set by the Chartered Institute of Patent Attorneys and the Institute of Trademark Attorneys.

Law costs draftsmen (costs lawyers) must take the ALCD Modular Training Course.

All solicitors in England and Wales must comply with the Solicitors Regulation Authority's continuing professional development (CPD) scheme. Solicitors must complete a minimum of 16 CPD hours each year.

Newly qualified barristers must complete 45 hours of CPD each year in their first three years of practice, including 9 hours of advocacy training and 3 hours of ethics training. After three years of practice, barristers must complete 12 hours of CPD each year.

Fellows of the Institute of Legal Executives must undertake 16 hours of CPD each year, while members of the Institute must undertake 12. Patent and trademark attorneys must also undertake 16 hours of CPD per year.

Costs lawyers must undertake 12 hours of CPD per year. Fellow and Associate costs lawyers must complete 9 hours per year.

Q137: Probate – lawyers wishing to conduct probate activities must attain a probate licence. In order to apply for a probate licence an individual must have passed the Qualifying Probate Examinations and passed the Practical Probate Training.

Solicitor-Advocates - solicitors wishing to obtain higher rights of audience and become Solicitor-Advocates must have practised as a solicitor for at least 3 years and be able to demonstrate experience of advocacy. If the solicitor cannot demonstrate experience of advocacy they must undertake a 12 month advocacy period during which they will build up a portfolio of cases and be supervised by a mentor.

Licensed Conveyancing – solicitors wishing to convert to being licensed conveyancers must apply to the Council for Licensed Conveyancers for a licence.

F.1

Please indicate the sources for answering questions 146 and 148:

Comments for interpreting the data mentioned in this chapter:

146) 165128 total includes solicitors (15000 barristers 150128 solicitors)- further 117862 solicitors with practising certificates

148) Unlike in other jurisdictions the legal profession is a divided profession in England and Wales. Solicitors deal with members of the public and interface with the clients. They carry out all legal work for their clients but do not have rights of audience in all courts. Solicitors have rights of audience in the lower courts which consist of the magistrates courts (criminal), county courts (civil), tribunals and also interlocutory hearings which are heard in chambers (private hearings in the High Court). They do not have rights of audience in the high courts (unless they have a Higher Rights qualification) which comprise the Crown Court (criminal), High Court (civil), Court of Appeal and the Supreme court.

6. 2. Practising the profession

6. 2. 1. Practising the profession

154) Can court users establish easily what the lawyers' fees will be (i.e. do users have easy access to prior information on the foreseeable amount of fees, is the information transparent and accountable)?

Yes

No

155) Are lawyers' fees freely negotiated?

Yes No**156) Do laws or bar association standards provide any rules on lawyers' fees (including those freely negotiated)?** Yes laws provide rules Yes standards of the bar association provide rules No, neither laws nor bar association standards provide rules**F.2****Useful comments for interpreting the data mentioned in this chapter:****6. 3. Quality standards and disciplinary proceedings****6. 3. 1. Quality standards and disciplinary proceedings****157) Have quality standards been determined for lawyers?** Yes No

If yes, what are the quality criteria used?

Quality standards are being developed for advocates (barristers/solicitors advocates and legal executives) by the Bar Standards Board, Solicitors Regulation Authority and ILEX Professional Standards.

The quality standards for solicitors are outlined in Chapter 1 of the Solicitors Regulation Authority's Code Of Conduct. The Legal Ombudsman also has quality standards.

158) If yes, who is responsible for formulating these quality standards: the bar association? the Parliament? other?

If "other", please specify:

Quality standards are being developed for advocates (barristers/solicitors advocates and legal executives) by the Bar Standards Board, Solicitors Regulation Authority and ILEX Professional Standards.

159) Is it possible to file a complaint about : the performance of lawyers? the amount of fees?

Please specify:

In England and Wales complaints about service (such as performance) can be filed with the Legal Ombudsman. Complaints about ethics and breaches of the Code of Conduct are filed with the Solicitors Regulation Authority.

Clients who wish to complain about the performance of their barrister must contact the Bar Standards Board, which deals with matters of professional misconduct and inadequate professional service. If the client wishes to complain about barristers' fees, they must contact the High Court for the barrister's bill to be taxed

160) Which authority is responsible for disciplinary procedures? the judge the Ministry of justice a professional authority other

If other, please specify:

Barristers - The Bar Standards Board and the Council of the Inns of Court

Solicitors - Serious cases are referred to the Solicitors Disciplinary Tribunal.

(Quasi judicial body) <http://www.solicitorstribunal.org.uk/>

The Tribunal adjudicates upon alleged breaches of the rules and regulations applicable to solicitors and their firms.

161) Disciplinary proceedings initiated against lawyers. If data is not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP. If "other", please specify it in the "comment" box below.

[If disciplinary proceedings are undertaken because of several mistakes, please count the proceedings only once and for the main mistake.]

	Total number of disciplinary proceedings initiated (1 + 2 + 3 + 4)	1. Breach of professional ethics	2. Professional inadequacy	3. Criminal offence	4. Other
Number	171	68	3	16	84

Comment :

These figures do not include solicitors

4. "Other" column for breaches of the practising requirements (failure to comply with Continuous Professional Development, failure to renew practising certificate, failure to obtain insurance)

162) Sanctions pronounced against lawyers. If data is not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP.

If "other", please specify it in the "comment" box below. If a significant difference between the number of disciplinary proceedings and the number of sanctions exists, please indicate the reasons in the "comment" box below.

	Total number of sanctions (1 + 2 + 3 + 4 + 5)	1. Reprimand	2. Suspension	3. Removal	4. Fine	5. Other (e.g. disbarment)
Number	120	25	17	0	44	34

Comment :

These figures do not include solicitors

Under 5. Other -

Advised 7

Compensation 1

Complete Continuing Professional Development 11

Disbarred 12

Other 2

Prohibited from Accepting Public Access Instructions 1

F.3

You can indicate below any useful comments for interpreting the data mentioned in this chapter

Q 161 and 162 figures do not include solicitors

7. Alternative Dispute Resolution

7. 1. Alternative Dispute Resolution

7. 1. 1. Alternative Dispute Resolution

163) Does the legal system provide for mediation procedures? If no skip to question 168

[Judicial mediation: in this type of mediation, there is always the intervention of a judge or a public prosecutor who facilitates, advises on, decides on or/and approves the procedure. For example, in civil disputes or divorce cases, judges may refer parties to a mediator if they believe that more satisfactory results can be achieved for both parties. In criminal law cases, a public prosecutor can propose that he/she mediates a case between an offender and a victim (for example to establish a compensation agreement).]

- Yes
 No

164) Please specify, by type of cases, the organisation of judicial mediation:

	Court annexed mediation	Private mediator	Public authority (other than the court)	Judge	Public prosecutor
Civil and commercial cases	Yes	Yes	No	No	No
Family law cases (ex. Divorce)	Yes	Yes	Yes	Yes	No
Administrative cases	No	Yes	No	No	No
Employment dismissals	No	Yes	No	Yes	No
Criminal cases	No	No	No	No	No

165) Is there a possibility to receive legal aid for mediation procedures?

- Yes
 No

If yes, please specify:

Family mediation: Legal aid has been available since 1997. Parties to family disputes who are entitled to public funding (legal aid) to take their case to court must first attend a meeting to learn about mediation and to discuss whether it would be suitable for the case. If they agree to take up mediation, the cost for it is paid by the State so long as the parties are entitled (because of their limited financial means) to public funding (legal aid).

Civil Mediation: There is generally much less legal aid available in civil cases. When funding civil and commercial mediation, the Legal Services Commission, which is responsible for providing legal aid (public funding), will expect the mediator to have been provided by a body accredited by the Civil Mediation Council (CMC). Details of accredited bodies are available on the CMC website (www.civilmediation.org). Mediators not provided by such a body may be funded but will need to satisfy the regional office that they have appropriate training and expertise.

166) Number of accredited or registered mediators who practice judicial mediation:

NA

167) Number of judicial mediation procedures.

Please indicate the source in the "comment" box below:

Total number of cases (total 1+2+3+4+5)	<input checked="" type="checkbox"/> Yes	24 600
1. civil cases	<input checked="" type="checkbox"/> Yes	10 000
2. family cases	<input checked="" type="checkbox"/> Yes	14 200
3. administrative cases		NAP
4. employment dismissals cases	<input checked="" type="checkbox"/> Yes	400
5. criminal cases		NAP

Comment :

We have no accurate record of the total number of cases that go to mediation or are settled by mediation, since the vast majority of mediations are conducted by private family or civil and commercial mediators.

However, the above approximate figures to Question 167 are based on those that we do know:

- In 2010/11 financial year, there were some 14,200 publicly funded family mediation cases (see answer to question 165);
- In 2010/11, 10,000 small claims mediations were conducted by the Her Majesty's Courts and Tribunals Service Small Claims Mediation Service (see comments to question 164);
- In 2010/11, approximately 400 judicial mediations were conducted in employment tribunal cases (see comments to question 164)

168) Does the legal system provide for the following ADR.

If "other", please specify it in the "comment" box below:

Mediation other than judicial mediation?	Yes
Arbitration?	No
Conciliation?	Yes
Other alternative dispute resolution?	Yes

Comment :

Mediation other than judicial mediation

Restorative justice can be undertaken as a form of mediation other than judicial mediation. Restorative justice principles are imbedded in the Youth Justice System for England and Wales. Restorative approaches can take place at all stages of the youth justice system and can be delivered immediately as a response to an offence by the police or as part of a formal response by the local Youth Offending Team (YOT). However, there is no formal national system of restorative conferencing in England and Wales for young offenders.

In the adult system, many police areas make use of restorative approaches, often known as community resolution, as a response to low-level, often first time crime where it is seen as a more appropriate response to, or in addition to, formal action. The Ministry of Justice is in the process of introducing Neighbourhood Resolution Panels to bring local victims, offenders and CJ professionals together, using restorative and reparation approaches to deal with certain types of low level crime and disorder. We plan to have panels up and running early in the new year.

In some areas, restorative justice is also available post-sentence, either as part of, or in addition to a criminal disposal e.g. as part of a community sentence. We are in the process of building capacity for staff and volunteers to deliver more restorative justice in probation trust areas and prisons.

Conciliation

Where a problem or disagreement in the workplace is likely to lead to a tribunal claim, the Advisory, Conciliation and Arbitration Service (Acas) will often be able to offer free and impartial pre-claim conciliation (PCC). The aim of this service is to help employers and employees to find a solution that is acceptable to both, and avoid the costs, stress and time associated with an employment tribunal. Acas PCC was expanded in April 2009, and over 80% of the cases in which both employers and employees have agreed to conciliate have been resolved without turning into tribunal claims.

Other alternative dispute resolution

In Family cases, collaborative law is an alternative dispute resolution practice which can be privately arranged by parties who wish to resolve a dispute outside of the court. Both parties to a dispute will have their lawyers present through the process to provide legal advice.

G.1

- any useful comments for interpreting the data mentioned in this chapter
- the characteristics of your system concerning ADR and the main reforms that have been implemented over the last two years

164) Family: Mediation is carried out by independent practitioners. Judges do not mediate on cases that come to the courts. However, it is within their powers to order parties to resolve a dispute through mediation.

In April 2011, a pre-application protocol for mediation information and assessment meetings came into effect. It is intended to increase awareness and understanding of mediation as an alternative to the court process. All family court applicants, unless they are exempt, are now required to first attend a meeting to find out about mediation before the commencement of proceedings. Mediation providers are self-regulated and independent from the government.

Civil: Mediation is carried out by independent practitioners. Judges do not mediate on cases that come to the courts. However, it is within their powers to order parties to resolve a dispute through mediation.

In addition, in 2007, a Small Claims Mediation Service was introduced into Her Majesty's Courts and Tribunals Service (HMCTS), since when that service has grown considerably. In each of the past two years, the 20-25 court-based mediators have conducted more than 10,000 mediations with a settlement rate of 73%. The service is free to parties with a defended small claim, and the vast majority (>90%) of mediations are conducted by telephone.

Employment: The Employment Tribunals offer a Judicial Mediation scheme for employment cases (including cases related to dismissal), which started as a pilot in 2006, and is now available throughout England and Wales. Over 65% of cases mediated reach a successful settlement on the day of mediation. Most cases that do not succeed on the day of the mediation are settled before the hearing as a result of the impetus created by the Judicial Mediation.

Suitable cases are identified, as part of the normal tribunal process, by an Employment Judge at a Case Management Discussion when the Employment Judge advises the parties of the possibility of an offer of Judicial Mediation. If both parties agree to the case proceeding to a Judicial Mediation, the Regional Employment Judge considers the file and decides whether to make an offer of Judicial Mediation, depending upon resource constraints and the suitability of the issues to mediation. Parties are notified if an offer cannot be made.

166) There currently 208 quality-assured Legal Service Commission's contracted family mediation services which carry out publicly funded mediation services across 1002 locations in England and Wales. In total, there are more than 600 family mediation services which have multiple mediators in several offices across England and Wales.

The Ministry of Justice requires all civil mediation provider organisations that want to be involved in court-referred mediation, to first become accredited with the Civil Mediation Council (CMC). Those organisations are then added to the list of providers on the new website to "Find a Civil Mediation provider": www.civilmediation.justice.gov.uk .

Currently, there are 52 mediation organisations accredited by the CMC, of which 45 feature on the new website.

There are 100 Employment Judges trained in judicial mediation

Family mediation: In addition to the introduction of the protocol discussed in answer to question 163, an independent review of the Family Justice System (FJS) has been completed and the Report was published on 3 November 2011. This sets out a comprehensive account of the current issues within the FJS within England and Wales. The recommendations are being considered by the Government and a response is planned for early 2012.

Please indicate the source for answering question 166:

Family mediation: Legal Services Commission Report

Employment mediation: Employment Tribunal (England & Wales) President's office

8. Enforcement of court decisions

8. 1. Execution of decisions in civil matters

8. 1. 1. Functioning

169) Do you have enforcement agents in your judicial system?

- Yes
 No

170) Number of enforcement agents

2 915

171) Are enforcement agents (multiple options are possible):

- judges?
 bailiffs practising as private professionals under the authority (control) of public authorities?
 bailiff working in a public institution?
 other enforcement agents?

Please specify their status and powers:

County court bailiffs are employed by HM Courts & Tribunals Service and are responsible for enforcing court orders for the recovery of monies, possession of property or goods subject to hire purchase agreements. In addition they can execute arrest warrants for contempt of court and undertake the service of court documents.

High Court Enforcement Officers (HCEOs) are appointed by or on behalf of the Lord Chancellor and are responsible for enforcing High Court orders and county court orders that have been transferred to the High Court.

Civilian Enforcement Officers (CEOs) are employed in the magistrates' court by HM Courts & Tribunals Service and are responsible for enforcing certain magistrates' court and Crown Court orders. They execute warrants of arrest, committal, detention and distress.

Certificated bailiffs hold a certificate granted by an issuing county court, which enables them, and them alone, to levy distress for rent, road traffic debts, council tax and non-domestic rates. They cannot enforce the collection of money due under High Court or county court orders.

172) Is there a specific initial training or examination to become an enforcement agent?

- Yes
 No

173) Is the profession of enforcement agents organised by?

- a national body?
 a regional body?
 a local body?
 NAP (the profession is not organised)

174) Are enforcement fees easily established and transparent for the court users?

- Yes
 No

175) Are enforcement fees freely negotiated?

Yes

No

176) Do laws provide any rules on enforcement fees (including those freely negotiated)?

Yes

No

Please indicate the source for answering question 170:

Ministry of Justice

Total - 2915

512 County Court Bailiffs

64 High Court Enforcement Officers

373 Civilian Enforcement Officers

1966 Certificated Bailiffs

8. 1. 2. Efficiency of enforcement services

177) Is there a body entrusted with supervising and monitoring the enforcement agents' activity?

Yes

No

178) Which authority is responsible for supervising and monitoring enforcement agents?

a professional body?

the judge?

the Ministry of justice?

the public prosecutor?

other?

If other, please specify:

179) Have quality standards been determined for enforcement agents?

Yes

No

If yes, what are the quality criteria used?

Understanding the law

Financial Propriety

Good Conduct

180) If yes, who is responsible for establishing these quality standards?

a professional body

the judge

the Ministry of Justice

other

If "other", please specify:

181) Is there a specific mechanism for executing court decisions rendered against public authorities, including for supervising such execution?

Yes

No

if yes, please specify

182) Is there a system for monitoring the execution?

Yes

No

If yes, please specify

**183) What are the main complaints made by users concerning the enforcement procedure?
Please indicate a maximum of 3.**

no execution at all?

non execution of court decisions against public authorities?

lack of information?

excessive length?

unlawful practices?

insufficient supervision?

excessive cost?

other?

If other, please specify:

184) Has your country prepared or has established concrete measures to change the situation concerning the enforcement of court decisions – in particular as regards decisions against public authorities?

Yes

No

If yes, please specify:

185) Is there a system measuring the timeframes of the enforcement procedures:

for civil cases?

for administrative cases?

186) As regards a decision on debts collection, please estimate the average timeframe to notify the decision to the parties who live in the city where the court sits:

between 1 and 5 days

between 6 and 10 days

between 11 and 30 days

more

If more, please specify

187) Number of disciplinary proceedings initiated against enforcement agents. If other, please specify it in the "comment" box below.

[If disciplinary proceedings are undertaken because of several mistakes, please count the proceedings only once and for the main mistake.]

Total number of disciplinary proceedings (1+2+3+4)	NA
1. for breach of professional ethics	NA
2. for professional inadequacy	NA
3. for criminal offence	NA
4. Other	NA

Comment :

188) Number of sanctions pronounced against enforcement agents.

If "other", please specify it in the "comment" box below. If a significant difference between the number of disciplinary proceedings and the number of sanctions exists, please indicate the reasons in the "comment" box below.

Total number of sanctions (1+2+3+4+5)	NA
1. Reprimand	NA
2. Suspension	NA
3. Dismissal	NA
4. Fine	NA
5. Other	NA

Comment :

H.1

You can indicate below:

- any useful comments for interpreting the data mentioned in this chapter
- the characteristics of your enforcement system of decisions in civil matters and the main reforms that has been implemented over the last two years

182) Bailiffs in civil courts are monitored by bailiff managers and have set targets. Civil Bailiffs are accountable to the District Judge of the courts which issued the judgement order.

High Court Enforcement Officers are monitored by their Association.

Enforcement in the magistrates' courts is managed by Fines Officers. Bailiffs operating on behalf of the magistrates' courts are not monitored by courts staff, who have no powers of intervention once a warrant has been issued and before a return is made.

There are a range of enforcement mechanisms within the civil courts. These include:

A "warrant of execution" gives court bailiffs the authority to take goods from the defendant's home or business.

Bailiffs will try to either:

- Collect the money owed; or
- Take goods to sell at auction.

An "attachment of earnings order" is sent to a debtor's employer and gives authority for an amount to be deducted from the debtor's earnings. The amount is deducted each pay day and sent to a court collection office to forward on to the creditor.

A "third party debt order" freezes a debtor's assets and is usually made to stop the debtor taking money out of their bank account, building society, stocks and shares etc. An order may be made directing the money owed to be paid to the creditor from the account. Such an order may also be sent to anyone who owes the debtor money.

A "charging order" prevents the debtor from selling their assets such as property, land or investments without paying what is owed to the creditor.

Please indicate the source for answering the questions 186, 187 and 188:

8. 2. Execution of decisions in criminal matters

8. 2. 1. Execution of decisions in criminal matters

189) Which authority is in charge of the enforcement of judgments in criminal matters? (multiple options possible)

- Judge
- Public prosecutor
- Prison and Probation Services
- Other authority

Please specify his/her functions and duties (initiative or monitoring functions). If "other authority", please specify:

Her Majesty's Courts and Tribunals Service (HMCTS) an executive agency of the Ministry of Justice is responsible for the collection of fines, prosecutor costs, compensation orders and victim surcharge orders imposed in magistrates and crown courts and certain confiscation orders.

190) Are the effective recovery rates of fines decided by a criminal court evaluated by studies?

- Yes
- No

191) If yes, what is the recovery rate?

- 80-100%
- 50-79%
- less than 50%
- it cannot be estimated

Please indicate the source for answering this question:

The payment rate is the current official Key Performance Indicator (KPI) measure for the collection of fines. The payment rate for the 2010/11 year was 93% and 80% when the value of administrative cancellations are excluded. The payment rate is calculated by dividing the amount paid in a year by the total amount imposed in the same period less the value of administrative and legal cancellations. It should be noted though that payments can relate to impositions from any previous period not just the current year. This data is obtained from the Libra IT system and is available on the Her Majesty's Courts and Tribunals Service internal performance database – One Performance Truth (OPT).

H.2

You can indicate below:

- any useful comments for interpreting the data mentioned in this chapter
- the characteristics of your enforcement system of decisions in criminal matters and the main reforms that have been implemented over the last two years

Over the past few years Her Majesty's Courts and Tribunals Service (HMCTS) has been restructuring enforcement teams so that the focus is on up front compliance with court orders rather than back end enforcement measures. This has been done by greater use of chasing methods such as phone calls and text messages at an early stage to people who have defaulted on payment and greater use of sanctions such as deductions from benefits and earnings orders. HMCTS has been developing new fine performance measures that will provide a better view on how much (value) and how many fine accounts that have been imposed in a year are collected within the same period and at what point they are paid. Trends from this data are currently being compiled.

9. Notaries

9. 1. Notaries

9. 1. 1. Notaries

192) Do you have notaries in your country? If no go to question 197

- Yes
 No

193) Are notaries:

If other, please specify it in the "comment" box below.

private professionals (without control from public authorities)?	<input checked="" type="checkbox"/> number	845
private professionals under the authority (control) of public authorities?	<input type="checkbox"/> number	
public agents?	<input type="checkbox"/> number	
other?	<input type="checkbox"/> number	

Comment :

194) Do notaries have duties (multiple options possible):

- within the framework of civil procedure?
 in the field of legal advice?
 to certify the authenticity of legal deeds and certificates?
 other?

If "other", please specify:

Eligible to conduct conveyancing and probate work but this is not a duty

195) Is there an authority entrusted with supervising and monitoring the the notaries' activity?

- Yes
 No

196) Which authority is responsible for supervising and monitoring notaries:

- a professional body?
 the judge?
 the Ministry of justice?
 the public prosecutor?
 other?

If other, please specify:

The Master of the Court of Faculties of the Archbishop of Canterbury for notaries in England and Wales under the oversight of the Legal Services Board

I.1

You can indicate below:

- any useful comments for interpreting the data mentioned in this chapter
- the characteristics of your system of notaries and the main reforms that have been implemented over the last two years

10. Court interpreters

10. 1. Court interpreters

10. 1. 1. Court interpreters

197) Is the title of court interpreters protected?

- Yes
 No

198) Is the function of court interpreters regulated by legal norms?

- Yes
 No

199) Number of accredited or registered court interpreters:

NA

200) Are there binding provisions regarding the quality of court interpretation within judicial proceedings?

- Yes
 No

If yes, please specify (e.g. having passed a specific exam):

As a minimum, the interpreter must have one or more of the following:

- 'Partial Diploma in Public Service Interpreting (DPSI)' (English Law option) i.e. the interpreter must have passed all modules with the exception of component 3b (written translation from English);
- A degree in linguistics, English philology, Modern Languages or MA in Teaching of English, or other language related diplomas where English figures as part of the course completed.

Together with (in all cases):

- Previous or current employment in criminal justice services in their countries of origin, legal training in the UK or abroad, or other exposure to criminal justice work through other channels is also acceptable (volunteer and/or paid work in the community for police services or work for Victim Support, for example);
- University level education (any degree);
- At least 100 hours public sector interpreting experience;
- References; and
- A pass at the assessment centre to the tier two standard.

201) Are the courts responsible for selecting court interpreters? If no, please indicate in the "comment" box below which authority selects court interpreters.

- Yes for recruitment and/or appointment for a specific term of office
 Yes for recruitment and/or appointment on an ad hoc basis, according to the specific needs of given proceedings
 - No

Comment :

Ad hoc interpreter requirements are met through agency bookings where all interpreters must meet the requirements

J.1

You can indicate below any useful comments for interpreting the data mentioned in this chapter:

198) Interpreters are bound by rules governing the behaviour of witnesses in court

Please indicate the sources for answering question 199:

11. Judicial experts

11. 1. Judicial experts

11. 1. 1. Judicial experts

202) In your system, what type of experts can be requested to participate in judicial procedures (multiple choice possible):

- "expert witnesses", who are requested by the parties to bring their expertise to support their argumentation
- "technical experts" who put their scientific and technical knowledge on issues of fact at the court's disposal
- "law experts" who might be consulted by the judge on specific legal issues or requested to support the judge in preparing the judicial work (but do not take part in the decision)

203) Is the title of judicial experts protected?

- Yes
- No

204) Is the function of judicial experts regulated by legal norms?

- Yes
- No

205) Number of accredited or registered judicial experts (technical experts)

NA

206) Are there binding provisions regarding the exercise of the function of judicial expert within judicial proceedings?

- Yes
- No

If yes, please specify, in particular the given time to provide a technical report to the judge:

Courts have the general power, as a matter of their general control over practice and procedure before them, to control evidence, and in particular to ensure that only such expert evidence as is reasonably necessary to resolve the issues in the case is put before the court. Time limits will be set by the court in the exercise of its general case management powers, taking into account the desirability of avoiding excessive cost and delay.

207) Are the courts responsible for selecting judicial experts?

If no, please indicate in the "comment" box below which authority selects judicial experts?

- Yes for recruitment and/or appointment for a specific term of office
- Yes for recruitment and/or appointment on an ad hoc basis, according to the specific needs of given proceedings
- No .

Comment :

There are provisions in rules of court governing the appointment of expert witnesses in appropriate cases, which are designed to steer the parties towards the instruction of an agreed joint expert where possible; but the expert or experts will be instructed by the parties. In some cases where a specialised jurisdiction is being exercised, there is provision for the court to sit with assessors who assist the court but do not make judicial decisions; but those cases are exceptional and do not involve recruitment for specific terms of office.

K.1

You can indicate below any useful comments for interpreting the data mentioned in this chapter:

202) It is not clear what is meant by the third category. Courts may in certain circumstances be assisted by an advocate to the court (previously known as an amicus curiae), who presents arguments in relation to the nature and

content of the legal background to and issues in a particular case. That does not appear to be what is described in the third category, however.

204) Expert witnesses have a duty to the court to give evidence according to their expertise and qualifications as experts.

Please indicate the sources for answering question 205:

12. Foreseen reforms

12. 1. Foreseen reforms

12. 1. 1. Reforms

208) Can you provide information on the current debate in your country regarding the functioning of justice? Are there foreseen reforms? Please inform whether these reforms are under preparation or have only been envisaged. If possible, please observe the following categories:

- 1. (Comprehensive) reform plans**
- 2. Budget**
- 3. Courts and public prosecution services (e.g. powers and organisation, structural changes - e.g. reduction of the number of courts -, management and working methods, information technologies, backlogs and efficiency, court fees, renovations and construction of new buildings)**
- 4. High Judicial Council**
- 5. Legal professionals (judges, public prosecutors, lawyers, notaries, enforcement agents, etc.): organisation, education, etc.**
- 6. Reforms regarding civil, criminal and administrative laws, international conventions and cooperation activities**
- 7. Enforcement of court decisions**
- 8. Mediation and other ADR**
- 9. Fight against crime and prison system**
- 10. Other**

Legal aid

The current legal aid reform programme is expected to deliver legal aid savings of around €411m by 2015/16, a reduction of 22% on current spend. These reforms complement a wider programme of reforms to move towards a sustainable and simpler justice system, and which encourage more efficient resolution of cases.

Prosecution (Crown Prosecution Service -CPS)

1. (Comprehensive) reform plans

There is an agreed Criminal Justice System Efficiency Delivery Plan which seeks to deliver more efficient and effective justice through greater use of electronic case files by all organisations; improved case administration processes; and more widespread use of video technology for hearings. This programme is due to deliver a digital CPS by April 2012 with further milestones stretching to 2013.

2. Budget

As part of the UK Government's commitment to reducing the budget deficit, the CPS in England and Wales must reduce its spending by 25% over four years. This means that over the next four years resource budgets will reduce each year in real terms.

The CPS's total net resource expenditure limits are set out below:

2011/12 2012/13 2013/14 2014/15

Resource Budget 729.94 696.54 664.98 618.60
(€ million)

3. Courts and public prosecution services

The Crown Prosecution Service has recently reorganised its structures to reduce its number of geographical Areas from 42 to 13. This reform is in place to improve the management of resources across the organisation and provide more robust management of key issues such as quality of service.

Civil, family, administrative and criminal justice on ADR

1. (Comprehensive) reform plans

As part of its Growth Review, the Government recently consulted on a series of measures aimed at improving dispute resolution within the workplace; the consultation included a number of proposed changes to the Employment Tribunal system. The Government will be issuing its response outlining those proposals it intends to take forward in the near future.

<http://www.bis.gov.uk/Consultations/resolving-workplace-disputes>

3. Courts and public prosecution services

It is currently free to lodge a claim with the Employment Tribunal. However, the Government plans to introduce fees to the Employment Tribunal, and will consult on how a fee charging regime will operate – fee levels, charging points, exemptions/remissions etc – in winter 2011.

Family Justice

1. (Comprehensive) reform plans

An independently chaired Family Justice Review was established in March 2010, jointly sponsored by the Ministry of Justice, the Department for Education and Welsh Government. The Review was asked to consider the current operation and structure of the family justice system, and to make recommendations for future reform.

The Review's final report was published on 3 November, informed by an extensive call for evidence process,

interviews, research, workshops and fact-finding visits, as well as consultation following the publication of an interim report.

The Review made a range of recommendations in three core areas (system reform, public law and private law) aimed at improving children's' and families' experience of the system. In summary, it proposed:

System reform

- Children should be given age appropriate information and opportunities to express their views. Older children should be offered a range of choices on how they can give their views to the court, should they want to.
- There should be greater coherence and improved leadership across the family justice system.
- Specialist judges should hear cases from start to finish to ensure consistency and confidence in managing cases for tightly.
- A unified single family court should be created to make it easier for people using the courts to know where to go.
- There should be culture change and development of the workforce to ensure a greater focus on child development. This would include specialist training for judges, magistrates and other people working in family justice.

Public law

- Courts should continue to play a central role, but they need to refocus on core issues about whether a child should live with family (immediate and wider) or be taken into care.
- A six month timetable limit for all cases, save in exceptional circumstances, should be established.
- There should be less reliance and tighter criteria for appointing expert witnesses, as these often lead to unnecessary delays.

Private law

- Contact with both parents post separation should be promoted through increased education and information for separating parents.
- An online information hub and helpline should be set up to help couples resolve issues outside of court.
- When there is dispute, court should be seen as a last resort, with couples encouraged to use dispute resolution services such as mediation and a Separated Parents Information Programme to solve these disputes.
- Parenting Agreements and a new child arrangements order should be created to encourage parents and children to come to joint decisions on their future with emphasis on time rather than the loaded terms of contact and residence.

The Government plans to publish its response to the Review, setting out its plans for future reform, as soon as possible when it has considered the Review's recommendations.

2. Budget

The estimate overall system cost of the family justice system in 2009/10 is now put at €2 billion (Source: Family Justice Review – Final Report).

3. Courts and public prosecution services

A review of the court estate has been carried out and approximately 110 magistrates' courts and county courts have been closed, many of which dealt with family proceedings. The courts closed were mostly small and cases will be dealt with at neighbouring courts.

The Family Procedure Rules 2010 came into force on 6 April 2011. These Rules provide a single set of court rules for all types of court and all types of family proceedings and modernise language and court procedures. It is intended that the Rules will make it easier for people to take forward family proceedings.

4. High Judicial Council

There are no current plans for amendments in this area.

5. Legal professionals

The Family Justice Review contains recommendations regarding the judiciary, Cafcass and organisations within the family justice system.

6. Reforms regarding civil, criminal and administrative laws, international conventions and cooperation activities

The Family Procedure Rules 2010 (see 3. above) include rules of court to enable the operation of the 1996 Hague Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in Respect of Parental Responsibility and Measures for the Protection of Children (the 1996 Hague Convention). These rules will apply when the 1996 Hague Convention comes into force for the UK. Legislation was passed in 2010 to remove conflicting legislation and to enable data sharing under the Convention.

The EU Regulation 4/2009 on jurisdiction, applicable law, recognition and enforcement of decisions and cooperation in matters relating to maintenance obligations has applied in the UK since June 2011. The Family Procedure Rules 2010 were amended in 2011 to provide rules of court for its operation. Legislation was passed in 2011 to facilitate the application of the Regulation.

7. Enforcement of court decisions

Enforcement of orders, particularly in relation to child contact, is being considered under the Family Justice Review. It is possible to enforce a contact order by an application for an enforcement order requiring the person who has failed to comply with the order to carry out unpaid work. A failure to comply with a court order can also be treated as a contempt of court, punishable by a fine or imprisonment.

The Family Proceedings Rules 2010 give greater flexibility for people to enforce financial orders made in family proceedings, enabling the court to determine what method of enforcement could be most effective in an individual case.

8. Mediation and other ADR

The Government actively encourages the use of family mediation in appropriate cases. The Government believes that the court is not necessarily the best forum for resolving every family dispute and that, in many cases, family mediation can be a more appropriate means of resolving family disputes. To ensure everyone is aware of mediation as an alternative means of resolving disputes than going to court, a Pre Application Protocol was issued to the family courts on 6 April 2011. It requires all prospective court applicants, whether self-funding or publicly-funded, in relevant family proceedings, including, for example, child contact disputes, to attend a meeting to learn about mediation before they take their case to court, unless they are exempt (for example, if domestic violence is present in the case).