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CEPEJ (2006)  
**Version finale**

**Answer to the  
REVISED SCHEME  
FOR  
EVALUATING JUDICIAL SYSTEMS  
2004 Data**

**Réponse à la  
GRILLE REVISEE  
POUR  
L'ÉVALUATION DES SYSTÈMES JUDICIAIRES  
Données 2004**

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**UNITED KINGDOM  
ENGLAND & WALES**



COUNCIL OF EUROPE      CONSEIL DE L'EUROPE

Strasbourg, 15 September 2005

**CEPEJ (2005) 2 REV 2**

**EUROPEAN COMMISSION FOR THE EFFICIENCY OF JUSTICE  
(CEPEJ)**

**REVISED SCHEME FOR EVALUATING JUDICIAL SYSTEMS**

**adopted by the CEPEJ at its 5<sup>th</sup> Plenary Meeting (Strasbourg, 15 – 17 June 2005) and  
approved by the Committee of Ministers on 7 September 2005  
(936<sup>th</sup> meeting of the Ministers' Deputies)**

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**REVISED SCHEME FOR EVALUATING JUDICIAL SYSTEMS**

**COUNTRY:** England and Wales

**National correspondent**

First Name – Name      Deirdre Boylan  
 Position                      Policy Officer  
 Organisation                European Policy Division, Department for Constitutional Affairs  
 E-mail                         deirdre.boylan@dca.gsi.gov.uk  
 Telephone                    020 7210 8735

**I. Demographic and economic data**  
**I. A. General information**

- |   |   |                       |
|---|---|-----------------------|
| <b>1.</b>   | <b>Number of inhabitants</b><br>Year of reference<br><i>Source National Statistics Online</i><br><a href="http://www.statistics.gov.uk/CCI/nugget.asp?ID=6">http://www.statistics.gov.uk/CCI/nugget.asp?ID=6</a>  | 53,046,300<br>2004    |
| <b>2.</b>   | <b>Total of annual State public expenditure / where appropriate, public expenditure at regional or federal entity level</b><br><br>Budget<br>Year of reference<br><i>Source</i> <a href="http://www.startinbusiness.co.uk/features/ukbudget/2004_expert_analysis.htm">http://www.startinbusiness.co.uk/features/ukbudget/2004_expert_analysis.htm</a> | 201 billion €<br>2004 |
| <b>NB. This was incorrectly recorded as 401billion in 2002. The figure I gave was 152.1B.</b> |   |                       |
| <b>3.</b>   | <b>Per capita GDP</b><br>Year of reference<br><i>Source</i> <a href="http://www.nationmaster.com/graph-T/eco_gdp_cap">http://www.nationmaster.com/graph-T/eco_gdp_cap</a>   | 24,579 €<br>2004      |
| <b>4.</b>   | <b>Average gross annual salary</b><br>Year of reference<br><i>Source National Statistics Online</i>   | 2004                  |

**I. B. Budgetary data concerning judicial system**

- |           |  |            |
|-----------|--|------------|
| <b>5.</b> | <b>Total annual budget allocated to all courts</b> | 429m euros |
|-----------|--|------------|

*Source: Her Majesty's Court Service Management Accounts*

**Please specify:**

**This includes capital expenditure but NOT legal aid or prosecution**

6. Within this budget, can you isolate the following budgets and specify, if appropriate, their amount:

	Yes	Amount
▪ Salaries?		
▪ IT?		
▪ Justice expenses borne by the State?		

Source: Her Majesty's Court Service Management Accounts

7. Annual public budget spent on legal aid

Source: Legal Services Commission Annual Report 2004/2005

See also: <http://www.dca.gov.uk/laid/laidfullpaper.pdf>

8. If possible, please specify:

- the annual public budget spent on legal aid in criminal cases
- the annual public budget spent on legal aid in other court cases

Source: Legal Aid Programme Management Division

9. Annual public budget spent on prosecution system

Source: <http://www.cps.gov.uk/publications/docs/resourceaccs03-04.pdf>

10. Bodies formally responsible for budgets allocated to the courts:

	Preparation of the budget (Yes/No)	Adoption of the budget (Yes/No)	Management and allocation of the budget among courts (Yes/No)	Evaluation of the use of the budget (Yes/No)
Ministry of Justice	No	No	No	No
Other ministry. Please specify	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. Please specify.	No	No	No	No
Other. Please specify	HMCS Regional Directors	HMCS Regional Directors	HMCS Regional Directors	HMCS Regional Directors

\*\*\*

You can indicate below:

- any useful comments for interpreting the data mentioned above
- the characteristics of your budgetary system

## II. Access to Justice and to all courts

### II. A. Legal aid

#### 11. Does legal aid concern:

	Criminal cases	Other than criminal cases
Representation in court (Yes/No)	Yes	Yes
Legal advice (Yes/No)	Yes	Yes
Other (Yes/No). Please specify		

#### 12. Number of legal aid cases:

▪ total	2,436,000
▪ criminal cases	1,580,000
▪ other than criminal cases	856,000

Source Criminal Defence Services

#### 13. In a criminal case, can any individual who does not have sufficient financial means be assisted by a free of charge (or financed by public budget) lawyer?

Yes No

#### 14. Does your country have an income and asset test for granting legal aid:

▪ for criminal cases?	No	Yes/Amount	
		income	< 134 €
		advocacy assistance	< 284 €
▪ for other than criminal cases?			

Source Department for Constitutional Affairs  
Criminal Defence Services

<http://www.dca.gov.uk/laid/laidfullpaper.pdf>  
<http://www.dca.gov.uk/lawp/lachap6.htm>

#### 15. In other than criminal cases, is it possible to refuse legal aid for lack of merit of the case (for example for frivolous action)?

Yes No

Source: <http://www.dca.gov.uk/middle/annexe.htm>

16. If yes, is the decision taken by: Yes
- the court?
  - a body external to the court?
  - a mixed decision-making body (court and external)?

**Comment:**

The Decision is taken by the Legal Services Commission

Source: <http://www.dca.gov.uk/middle/annexe.htm>

17. In general are litigants required to pay a court tax or fee to start a proceeding at a court of general jurisdiction: Yes No
- for criminal cases?
  - for other than criminal cases?

If yes, are there exceptions? Please specify:

The fee may be waived in cases of hardship

18. Is there a private system of legal expense insurance for individuals in order to finance legal proceedings to court?

No

Yes

Please specify:

There is no obligation for legal expense insurance, it is only voluntary.

19. Do judicial decisions have an impact on who bears the legal costs which are paid by the parties during the procedure in: Yes No
- criminal cases?
  - other than criminal cases?

\*\*\*

*You can indicate below:*

- any useful comments for interpreting the data mentioned above
- the characteristics of your legal aid system

*(England and Wales) Court Service - Annual Report and Accounts 2004/2005*

II. B. Users of the courts and victims
II. B. 1. Rights of the users and victims

20. Are there official internet sites/portals (e.g. Ministry of Justice, etc.) for the following, which the general public may have free of charge access to: Yes No
- legal texts (e.g. codes, laws, regulations, etc.)?
- Internet address(es): U.K.: <http://www.hmso.gov.uk>  
<http://www.parliament.uk>

▪ **case-law of the higher court/s?**

Internet address(es): U.K. <http://www.dca.gov.uk>

▪ **other documents (for examples legal forms)?**

Internet address(es): England & Wales <http://www.courtservice.gov.uk>  
(Forms and Guidance)

**21. Is there an obligation to provide information to the parties concerning the foreseeable timeframe of the proceeding?**

Yes No

**If yes, please specify:**

There is no obligation to provide information to the parties concerning the foreseeable timeframe of the proceeding, but it is usual in practice to provide such time limits – although in most cases there is nothing specified in a law or a rule.

**22. Is there a public and free-of-charge specific information system to inform and to help victims of crimes?**

Yes No

Comments:

See the following web sites:

Home Office: <http://www.homeoffice.gov.uk/justice/victims/index.html>

Criminal Justice System Online: <http://www.cjsonline.org/virtual/victims.html>

**23. Are there special arrangements to be applied, during judicial proceedings, to the following categories of vulnerable persons:**

	Information mechanism (Yes/No)	Hearing modalities (Yes/No)	Procedural rights (Yes/No)	Other (Yes/No). Please specify
Victims of rape	Yes	Yes	Yes	-
Victims of terrorism	Yes	Yes	Yes	-
Child/Witness/Victim	Yes	Yes	Yes	-
Victims of domestic violence	Yes	Yes	Yes	-
Ethnic minorities	Yes	Yes	Yes	-



Disabled persons	Yes	Yes	Yes	-
Juvenile offenders	Yes	Yes	Yes	-
Other	There are a range of measures which can be used for any vulnerable person.-	-	-	-

24. Does your country have a compensation procedure for victims of crimes?

Yes No

25. If yes, does this compensation procedure consist of:

Yes

- a public fund?
- a court order?
- private fund?

26. If yes, which kind of cases does this procedure concern?

The Great Britain Criminal Injuries Compensation Scheme provides payments to blameless victims of crimes of violence and those injured in trying to apprehend criminals or prevent crime. The Scheme operates in England, Scotland and Wales. Anyone sustaining injury is eligible to apply. There is a separate scheme for Northern Ireland. The Scheme is administered by the Criminal Injuries Compensation Authority (CICA) and the complementary, independent appellate body, the Criminal Injuries Compensation Appeals Panel (CICAP).

27. For victims, are there studies to evaluate the recovery rate of the compensation awarded by courts?

No

Yes Please specify:

The Home Office has explained the procedure for complaints from victims of crime in the Victim's Charter (see <http://www.homeoffice.gov.uk/justice/victims/charter/viccomp.html>)

## II. B.2. Confidence of citizens in their justice system

28. Is there a system for compensating users in the following circumstances:

Yes No

- excessive length of proceedings?
- wrongful arrest?
- wrongful condemnation?

If yes, please specify (fund, daily tariff):

Have a look at

[http://www.legalappeal.co.uk/pages/justice/compensation\\_for\\_wrongful\\_imprisonment.php](http://www.legalappeal.co.uk/pages/justice/compensation_for_wrongful_imprisonment.php)

29. Does your country have surveys on users or legal professionals (judges, lawyers, officials, etc.) to measure public trust and satisfaction with the services delivered by the judiciary system?

Yes No

If possible, please specify their titles, how to find these surveys, etc:

Institute for Public Policy Research:

<http://www.ippr.org.uk/articles/archive.asp?id=1549&fID=55>

30.

If yes, please specify:	Through systematic surveys (Yes/No)	Through ad hoc surveys (Yes/No)
Surveys at national level	No	No
Surveys at court level	Yes	Yes

31. Is there a national or local procedure for making complaints about the performance of the judicial system?

Yes No

32. If yes, please specify:

	Time limit to respond (Yes/No)	Time limit for dealing with the complaint (Yes/No)
Court concerned (Crown/County/Magistrates Court)	Yes	Yes
Higher court	Yes	Yes
Ministry of Justice	Yes	Yes
High Council of Justice	Yes	Yes
Other external organisations (e.g. Ombudsman)	No	No

Source: <http://www.dca.gov.uk/legalsys/complain.htm#4d>

Can you give information elements concerning the efficiency of this complaint procedure?

Information on how to complaint is contained in the Victim's Charter produced by the Home Office (see link above). However, the issue of complaints about the performance of the judiciary touches the delicate point of the independence of the judiciary. One way in which this independence is protected is through security of tenure during good behaviour. Since the Act of Settlement of 1701, the Heads of Division, Law Lords, Lords Justices of Appeal and High Court Judges can only be removed by the Queen if requested by an address from both Houses of Parliament. The position of Circuit Judges and other judicial officers is different as they can be removed by the Lord Chancellor if necessary for incapacity or misbehaviour. On 12 April 2000 the Lord Chancellor announced new

terms of service intended to put beyond reasonable doubt the safeguards guaranteeing the security of tenure and therefore the independence of part-time office holders. From that date, subject to statutory provision, the specified grounds for non-renewal of part-time office holders whose terms of office are usually for a period of not less than 5 years are generally: misbehaviour; incapacity; persistent failure to comply with sitting requirements; sustained failure to observe the standards reasonably expected from a holder of such office. For all but the last two grounds, decisions not to renew or to remove an office holder are taken by the Lord Chancellor only with the concurrence of the Lord Chief Justice and following an investigation conducted by a judge nominated by him. Where appropriate, the relevant Scottish, Welsh or Northern Ireland Ministers are involved in such decisions and the Lord president of the Court of Session and the Lord Chief Justice of Northern Ireland assume the role of the Lord Chief Justice for appointments in Scotland and Northern Ireland respectively.

When a complaint is made about the personal conduct of a member of the judiciary, the Lord Chancellor will instruct his officials to make enquiries.

## II. Organisation of the court system

### III. A. Functioning

33. **Total number of courts (administrative structure):  
first instance courts of general jurisdiction** approximately 710 (220 County Courts, 90 Crown Court centres, 400 Magistrates Courts)

*Source: Judicial Statistics Annual Report 2004*

- **specialised first instance courts** 17 Tribunals and the High Court

*Source: Judicial Statistics Annual Report 2004*

**Please specify the different areas of specialisation (and, if possible, the number of courts concerned):**

Tribunals are: Adjudication to HM Land Registry; Finance & Tax; Financial Services & Markets; Gender Recognition Panel; Immigration Appellate Authorities; Asylum & Immigration; Immigration Services; Information Tribunal; Lands Tribunal; Pathogen Access Appeals; Pensions Appeal; Proscribed Organisation Appeals Commission; Social Security & Child Support Commissions; Special Immigration Appeals Commission; Transport Tribunal; Employment Appeal; General Commissioners.

34. **Total number of courts (geographic locations)**
- |                            |            |
|----------------------------|------------|
| <b>Greater London:</b>     | <b>88</b>  |
| <b>Midlands:</b>           | <b>124</b> |
| <b>North East:</b>         | <b>91</b>  |
| <b>North West:</b>         | <b>73</b>  |
| <b>South East:</b>         | <b>143</b> |
| <b>South West:</b>         | <b>99</b>  |
| <b>Wales and Chesters:</b> | <b>93</b>  |

*Source: Her Majesty's Court Service*

35. Number of first instance courts competent for a case concerning:

- a debt collection for small claims

Please specify what is meant by small claims in your country:

Small claims are specified as all claims under £ 5,000 (=7297.09 €) with exception of personal injury and housing disrepair, in which cases the threshold is £ 1,000 (=1459.85 €)

- a dismissal 34 employment tribunals
- a robbery approx 500

36. Number of professional judges sitting in courts **1,305**  
(present the information in full time equivalent and for permanent posts)

Source Judicial Statistics 2004

37. Number of professional judges sitting in courts on an occasional basis and who are paid as such:

- gross figure **2,370**
- if possible, in full time equivalent

Source Judicial Statistics DCA

Please specify:

**Recorders: 1,396 in 2004 sat a minimum of 15 days and maximum of 30 days on a fee paid basis.**

**Deputy District Judges (County Courts): 801 sat between 15 and 50 days a year on a fee paid basis**

**Deputy District Judges (Magistrates courts): 173 sat a minimum of 15 days a year on a fee paid basis.**

38. Number of non-professional judges (including lay judges) who are not remunerated but who can possibly receive a simple defrayal of costs **28,029**

Year: 2004

Source: Judicial Appointments

Please specify:

**The 28,029 lay magistrates in the UK apply for the job and go through a rigorous selection process. They must sit a minimum of 26 sittings, that is 13 days, and a maximum of 70 sittings, 35 days. They deal with all summary cases, i.e. those attracting a sentence of less than 6 months or a fine of under £5,000.**

**95% of criminal cases begin and end in the Magistrates courts.**

39. Does your judicial system include trial by jury with the participation of citizens?

No

Yes

For which type of case(s)?

**Criminal cases!**

If possible, number of citizens who were involved in such juries for the year 2004?

**200,000 approx.**

40. **Number of non-judge staff who are working in courts** 23,000  
(present the information in full time equivalent and for permanent posts)

**NB. These are staff working in all courts, including magistrates.**

Year: 2004

Source: Human Resources DCA

41. If possible, could you distribute this staff according to the 3 following categories:

**Not possible**

- non-judge staff whose task is to assist the judges (case file preparation, assistance during the hearing, keeping the minutes of the meetings, helping to prepare the decisions) such as registrars:
- staff in charge of different administrative tasks as well as of the management of the courts (human resources management, material and equipment management, including computer systems, financial and budgetary management, training management):
- technical staff:

42. In courts, do you have non-judge staff entrusted with judicial or quasi-judicial tasks having autonomous competence and whose decisions could be subject to appeal (such as German and Austrian Rechtspfleger):

No

Yes                      Number of staff

43. **Number of public prosecutors** 2,819  
(present the information in full time equivalent and for permanent posts)

Source Crown Prosecution Service

44. Do you have persons who have similar duties as public prosecutors?

No

Yes                      Please specify:

**Local Authorities**

45. Is the status of prosecutors:

Yes

- independent within the judiciary?
- independent from the judiciary ?
- under the authority of the Ministry of Justice?

46. **Number of staff (non prosecutors) attached to the public prosecution service** 8,011  
(present the information in full time equivalent and for permanent posts)

**47. Who is entrusted with the individual court budget?**

	<b>Preparation of the budget (Yes/No)</b>	<b>Arbitration and allocation (Yes/No)</b>	<b>Day to day management of the budget (Yes/No)</b>	<b>Evaluation and control of the use of the budget (Yes/No)</b>
Management Board	-	-	-	-
Court President	-	-	-	-
Court administrative director	<b>-Yes</b>	<b>-Yes</b>	<b>-Yes</b>	<b>-Yes</b>
Head of the court clerk office				
Other. Please specify	-	-	-	-

**48. In general, do the courts in your country have computer facilities?**

Yes    No

**49. What are the computer facilities used within the courts?**

<b>Functions</b>	<b>Facilities</b>	<b>100% of courts</b>	<b>+50% of courts</b>	<b>-50% of courts</b>	<b>- 10 % of courts</b>
Direct assistance to the judge/court clerk	Word processing	<b>X</b>			
	Electronic data base of jurisprudence	<b>X</b>			
	Electronic files		<b>X</b>		
	E-mail	<b>X</b>			
	Internet connection	<b>X</b>			
Administration and management	Case registration system	<b>X</b>			
	Court management information system	<b>X</b>			
	Financial information system		<b>X</b>		
Communication	Electronic forms	<b>X</b>			

between the court and the parties	Special Website	X			
	Other electronic communication facilities	X			

50. Is there a centralised institution which is responsible for collecting statistical data regarding the functioning of the courts and judiciary?

No

Yes

Please specify the name and the address of this institution:

Economic & Statistics Division  
 Department for Constitutional Affairs  
 54/60 Victoria Street  
 London SW1E 6QW

\*\*\*

You can indicate below:

- any useful comments for interpreting the data mentioned above
- the characteristics of your judicial system

<b>III. B. Monitoring and evaluation</b>
--

51. Are the courts required to prepare an annual activity report?

Yes

No

52. Do you have a regular monitoring system of court activities concerning the:

Yes No

- number of incoming cases?
- number of decisions?
- number of postponed cases?
- length of proceedings?
- other?

Erreur ! Liaison incorrecte.

Please specify:

**NB. Monitoring systems are local and allow cases to be tracked and identified if they fall outside of the set target.**

53. Do you have a regular evaluation system of the performance of the court?

No

Yes

Please specify:

The Court User Service and the Charter Mark System guarantee a regular evaluation system of the performance of the court to ensure customer satisfaction.

54. Concerning court activities, have you defined:

- performance indicators?

Yes

No

**Please specify the 4 main indicators for a proper functioning of justice:**

PSA1 – Improve the delivery of justice by increasing the number of crimes for which an offender is brought to justice to 1.25 million by 2007-08.  
PSA2 – Reassure the public, reducing the fear of crime and anti-social behaviour, and building confidence in the Criminal Justice System without compromising fairness  
PSA4 – By 2009-10, increase the proportion of Public Law cases dealt with within 40 weeks  
PSA5 – Achieve earlier and more proportionate resolution of legal problems by: increasing opportunities for people involved in court cases to settle their disputes out of court; and reducing delays in resolving those disputes that need to be decided by the courts.

▪ **targets?** Yes No

**Please specify who is responsible for setting the targets:**

Yes

- executive power?
- legislative power?
- judicial power?
- other?

**Please specify:**

**Please specify the main objectives applied:**

To ensure efficiency of justice.

OBTJ – reducing the gap between recorded crime and offences brought to justice.  
Confidence – increasing confidence and satisfaction in CJS among witnesses, victims and members of the public  
Family – reducing delay  
Civil – reducing court hearings and increasing the use of alternative dispute resolution

Source HMCS

55. **Which authority is responsible for the evaluation of the performances of the courts:**

Yes

- the High Council of judiciary?
- the Ministry of justice?
- an Inspection body?
- the Supreme Court?
- an external audit body?
- other?

**Please specify:**

**Her Majesty's Court Service is an Executive Agency of the Department for Constitutional Affairs which is the UK equivalent of a Ministry of Justice, therefore, the table is correct in transferring the data above.**

56. **Does the evaluation system include quality standards concerning judicial decisions?**

No  
Yes

**Please specify:**



Source: Civil and Family Procedures Branch of Her Majesty's Court Service

57. Is there a system enabling to measure the backlogs and to detect the cases which are not processed within an acceptable timeframe for:

Yes No

- civil cases?
- criminal cases?
- administrative cases?

**These systems are locally based and courts are able to track cases and see when they fall outside of target.**

58. Do you have a way of analysing queuing time during court procedures?

No

Yes

Please specify:

Although there is a diary management system in civil matters, there is no established method of analysing queuing time during court procedures.

59. Do you monitor and evaluate the performance of the prosecution services?

No

Yes

Please specify:

The Crown Prosecution Service is in charge of this issue.

\*\*\*

*You can indicate below:*

- *any useful comments for interpreting the data mentioned above*
- *the characteristics of your court monitoring and evaluation system*

**See weblink:**

<http://www.cps.gov.uk/>

#### IV. Fair trial

##### IV. A. Fundamental principles

60. Is there in your judicial system:

- a right for an interpreter for all those within your jurisdiction who cannot understand or speak the language used in court?

Yes

No

- the right to have reasons given for all prisons sentences?

Yes

No

- for all cases, an effective remedy to a superior jurisdiction?

Yes

No

61. What is the percentage of judgements in first instance criminal cases in which the suspect is not actually present or represented? **NOT APPLICABLE!**

Source

62. Is there a procedure to effectively challenge a judge if a party considers he/she is not impartial?

No

Yes **If possible, number of successful challenges (in a year): NOT POSSIBLE!**

63. Please give the following data 2003 and 2004 concerning the number of cases regarding the violation of Article 6 of the European Convention of Human Rights:

		Cases communicated by the Court		Cases declared inadmissible by the Court		Friendly settlements		Judgements establishing a violation		Judgements establishing a non violation	
		2003	2004	2003	2004	2003	2004	2003	2004	2003	2004
Criminal proceedings	Article 6§1 (equity)						2	3	7	1	
	Article 6§1 (duration)							1	4		
	Article 6§2										
	Article 6§3a										
	Article 6§3b								1		
	Article 6§3c							2	2		
	Article 6§3e										
Civil proceedings	Article 6§1 (equity)										
	Article 6§1 (duration)							2	1		
	Article 6§1 (non execution only)										

Source FCO

**IV.B. Timeframes of proceedings**

**IV. B. 1. General**

64. Are there specific procedures for urgent matters in: Yes No

- civil cases?
- criminal cases?
- administrative cases?

65. Are there simplified procedures for:

Yes No

- civil cases (small claims)?
- criminal cases (petty offences)?
- administrative cases?

66. Is it possible for a second instance court to send back a case to a first instance court for a new examination?

Yes No

67. Do courts and lawyers have the possibility to conclude agreements on modalities for processing cases (presentation of files, binding timeframes for lawyers to submit their conclusions and dates of hearings)?

No  
Yes Please specify:

Plea & Direction Hearings in criminal matters  
Case Management in civil matters

#### IV. B. 2. Civil and administrative cases

68. Total number of civil cases in courts (litigious and not litigious): **1,770,056**

Please specify the main types of cases:

**This includes cases before Tribunals. These are broken down as follows:**

- Immigration Adjudicators: 107,174**
- Immigration Appeal Tribunal: 50,915**
- Social Services and Child Commission: 5,964**
- Pensions Appeal Tribunal: 2,914**
- VAT & Duties: 3,761**
- Special Commissioners: 219**
- Lands Tribunal: 499**
- Transport Tribunal: 461**
- Employment Appeals Tribunal: 1,023**

Source: Judicial Statistics

69. Litigious administrative and civil cases in courts – please complete this table concerning the number of cases/length of proceedings/pending cases and specify definitions of incoming cases, starting and ending point of length and pending cases:

	Civil cases	Administrative cases	Divorce	Employment dismissal
Incoming cases	1,597,123	582,158	167,193	1,023
Decisions on the merits	61,824		166,042	929

Total number (1st instance)	Percentage of decisions subject to appeal in a higher court	See comment 1	N/A	N/A	N/A
	Pending cases by 1 January 2005	N/A			
	Percentage of pending cases of more than 3 years	0			
Average length (from date of lodging of court proceedings*)	1st instance decisions	Trial fast-track: 26.1 wks. Multi-track: 41.3 wks. Small claims: 11.9 wks. See comment 2			
	2nd instance decisions				
	Total procedure				

\* If you cannot calculate the average length from the date of lodging of court proceedings, how do you calculate length of proceedings?

**Comment 1- Appeal procedures are too complicated to describe. Records held by the Court of Appeal would only account for about half of the number.**

**Comment 2 – This is from allocation to track to disposal hearing**

**NB. The average length of proceedings cannot be represented as in Table 68 of the report. The majority of cases are small claims and are, therefore, heard within 11.9 weeks. To add the targets and divide by 3 gives an inaccurate figure.**

**In civil cases we do not count pending cases in the way the question is phrased. We set targets and case management allows cases which fall outside of the target to be identified.**

**Where appropriate, please specify the specific procedure as regards divorce:**

**Weblink:** [http://europa.eu.int/comm/justice\\_home/ejn/divorce/divorce\\_eng\\_en.htm](http://europa.eu.int/comm/justice_home/ejn/divorce/divorce_eng_en.htm)

*Source* European Judicial Network Website, link, see above

#### IV. B. 3. Criminal cases

**70. Please describe the role and powers of the prosecutor in the criminal procedure:**

	Yes	No
▪ to conduct or supervise police investigation?		x
▪ to conduct investigation?		x
▪ when necessary, to demand investigation measures from the judge?		x
▪ to charge?		
▪ to present the case in the court?		
▪ to propose a sentence to the judge?		x

- to appeal? X
- to supervise enforcement procedure? X
- to end the case by dropping it without the need for a judicial decision? X
- to end the case by imposing or negotiating a penalty without a judicial decision? X
- other significant powers?  
Please specify:

**Point 7 (to appeal) generally no but in certain circumstances the prosecution can appeal. The Attorney General can appeal unduly lenient sentences in certain specified offences. Point 10: A police officer can give a conditional caution.**

**71. Does the prosecutor also have a role in civil and/or administrative cases?**

No

Yes

**Please specify:**

**In general, the answer to this question is no, whereas in case of anti-social behaviour the prosecutor does have a role.**

**72. Functions of the public prosecutor in relation to criminal cases– please complete this table:**

		Total number of 1st instance criminal cases
Received by the public prosecutor		Number of receipts not available for whole of 2004 but 1.57m received from April 2003 -March 2004. Number of cases completed was 1,232,828 in Magistrates' courts and 97,939 in the Crown Court.
Discontinued by the public prosecutor	In general	172,848 dropped by CPS
	Because the offender could not be identified	8,013 + 64,182 finalised administratively because defendant could not be traced, had died, or had been found unfit to plead.
	Due to the lack of an established offence or a specific legal situation	32,832
Concluded by a penalty, imposed or negotiated by the public prosecutor		Number of convictions was 1,060,619
Charged by the public prosecutor before the courts		1,330,767

*Source* Crown Prosecution Service

**73. Criminal cases in courts – please complete this table concerning the number of cases/length of proceedings/pending cases and specify definitions of incoming cases, starting and ending point of length and pending cases:**

		Criminal cases	Robbery cases	Intentional homicides
	Incoming cases	2,022,604	12,404	759
	Judicial decisions	1,599,448	9,693	458
	Convicted persons	1,548,500	7,481	361

Total number (1st instance)	Acquitted persons	50,948	2,212	97
	Percentage of decisions subject to appeal in a higher court	12.7 (this is from Crown Ct. to Court of Appeal) 16.2 from lower court to Crown Ct.	Not available	Not available
	Pending cases by 1 January 2005	28,198		
	Percentage of pending cases of more than 3 years	0		
Average *length* (from the date of official charging)	1st instance decision	15.5 weeks		
	2nd instance decision			
	Total procedure			

\* If you cannot calculate the average length from the date of official charging, how do you calculate length of proceedings?

**\*Comment: This is from committal to start of trial**

**We identify cases outside the set targets for waiting times from committal to coming to trial. These targets are:**

**Custody time limit: 16 weeks**

**From committal to trial: 26 weeks**

**Committals for sentence: 10 weeks**

**Appeals: 14 weeks.**

**Overall we met these targets by 78%**

Source Home Office and DCA Economics & Statistics Unit

\*\*\*

**You can indicate below:**

- **any useful comments for interpreting the data mentioned above**
- **the characteristics of your system concerning timeframes of proceedings**

**See the following weblink:**

[http://www.dca.gov.uk/criminal/procrules\\_fin/rulesmenu.htm](http://www.dca.gov.uk/criminal/procrules_fin/rulesmenu.htm)

## V. Career of judges and prosecutors

### V. A. Appointment and training

74. Are judges initially/at the beginning of their career recruited and nominated by: Yes
- a body composed of members of the judiciary?
  - a body composed of members external to the judiciary?
  - a body composed of members of the judiciary and external to the judiciary?

**Comment:**

It is proposed that the Judicial Appointments Commission will comprise 15 Commissioners: 6 lay members including the chairman; 5 judicial members including the vice-chairman; 2 legal practitioners; a member of an administrative tribunal; and a lay magistrate. Members of Parliament and officials of the civil service will be precluded from membership. The Commission will be a non-departmental public body and will employ its own staff, who will not be Crown servants.

75. Are prosecutors initially/at the beginning of their career recruited and nominated by: Yes
- a body composed of members of the prosecution system?
  - a body composed of members external to the prosecution system?
  - a body composed of members of the prosecution system and external to the prosecution system?

76. Is the mandate given for an undetermined period for:

- |                |     |    |
|----------------|-----|----|
|                | Yes | No |
| ▪ judges?      |     |    |
| ▪ prosecutors? |     |    |

Are there exceptions ? Please specify:

If no, what is the length of the mandate:

Is it renewable?

- |                   |     |    |
|-------------------|-----|----|
|                   | Yes | No |
| ▪ of judges?      |     |    |
| ▪ of prosecutors? |     |    |

\*\*\*

*You can indicate below:*

- *any useful comments for interpreting the data mentioned above*
- *the characteristics of the selection and nomination procedure of judges and prosecutors*

Have a look at the following weblink: <http://www.dca.gov.uk/consult/jacommission/responses/ja192.pdf>

The Prime Minister [announced on 12 June 2003](#) the Government's intention to establish a new Judicial Appointments Commission to be responsible for the selection of judges in England and Wales. In July, Lord Falconer, Secretary of State for Constitutional Affairs and Lord Chancellor, published a Consultation Paper, *Constitutional reform: a new way of appointing judges*, seeking views on the form and role of the new Judicial Appointments Commission. The paper included a detailed description of the three broad models possible for the Commission. These are:

- an Appointing Commission which would take over the Lord Chancellor's role in directly making appointments up to the level of Circuit Judge and in advising The Queen on appointments at that level and above; or
- a Recommending Commission which would make recommendations to a Minister as to whom he or she should appoint (or recommend that The Queen appoint); or
- a Hybrid Commission which combines the functions above by directly making more junior appointments and by recommending more senior appointments.

The Consultation paper also examined functions that a new Commission might carry out, the division of responsibilities between the Commission and the Department for Constitutional Affairs, and how the membership of the new Commission might be appointed and structured.

Source: <http://www.dca.gov.uk/consult/jacommission/jacresp.htm>

#### 77. Nature of the training of judges:

	Compulsion (Yes/No)		Frequency (Yes/No)	
	Initial training	Compulsory	Yes	
	Highly recommended			
	Optional			
General in-service training	Compulsory		Annual	
	Highly recommended	Yes	Regular	Yes
	Optional		Occasional	
In-service training for specialised functions (e.g. judge for economic or administrative issues)	Compulsory		Annual	
	Highly recommended	Yes	Regular	Yes
	Optional		Occasional	
In-service training for specific functions (e.g. management or leadership, etc.)	Compulsory		Annual	
	Highly recommended	Yes	Regular	Yes
	Optional		Occasional	

#### 78. Nature of the training of prosecutors:

	Compulsion (Yes/No)		Frequency (Yes/No)	
	Initial training	Compulsory	Yes	
	Highly recommended			
	Optional			
General in-service training	Compulsory	Yes	Annual	
	Highly recommended		Regular	Yes
	Optional		Occasional	
Specialised in-service training	Compulsory	Yes	Annual	
	Highly recommended		Regular	Yes
	Optional		Occasional	

\*\*\*



You can indicate below:

- any useful comments for interpreting the data mentioned above
- the characteristics of your training system for judges and prosecutors

**V. B. Practice of the profession**

**79. Gross annual salary of a first instance professional judge at the beginning of his/her career**

High Court Judge	223,100 €
Circuit Judge	167,270 €
<b>District Judge</b>	<b>133,000 euros</b>

Year: 2004  
 Source UK Government Consolidated Fund

**NB. These salaries cannot be averaged out as this gives an inflated figure for judges salaries in the UK. There are many more Circuit and District Judges than High Court Judges. To average the salaries of Circuit and District Judges would not distort the figures too much.**

**Judges pensions are non-contributory.**

**80. Gross annual salary of a judge of the Supreme Court or of the highest appellate court**

Lord of Appeal in Ordinary	265,390 €
Year:	2004

Source UK Government Consolidated Fund

**81. Gross annual salary of a public prosecutor at the beginning of his/her career**

on grade and seniority) and 91,740 € (depending  
 Year: 2004

Source Crown Prosecution Service

**82. Gross annual salary of a public prosecutor of the Supreme Court or of the highest appellate court**

See question 81.

**83. Do judges and public prosecutors have additional benefits?**

	Judges (Yes/No)	Public prosecutors (Yes/No)
Reduced taxation	No	No
Special pension	Yes	No
Housing	No	No
Other financial benefit (If yes, please specify)	No	No

Sources: <http://www.aalj.org/pension5.doc>

**84. Can judges or prosecutors combine their work with any of the following other professions?**

	Judges			Prosecutors		
	Yes with remuneration	Yes without remuneration	No	Yes with remuneration	Yes without remuneration	No
Teaching		X		X	X	
Research and publication		X		X	X	
Arbitrator		X		X	X	
Consultant		X		X	X	
Cultural function		X		X	X	
Other function to specify		X		X	X	

**Comment, regarding prosecutors:**

**Prosecutors are allowed to undertake other jobs – paid or unpaid – if they can satisfy certain criteria:**

- The job should not in any case have an adverse effect on their official work, either because of its nature or because it involves long hours
- Should not require their attendance in any time during normal hours of work; and
- Should not bring any conflict of loyalty to their position as a civil servant or conflict with the interests of the Crown Prosecution Service.

Crown Prosecutors may be considered on merit for certain types of judicial appointment, namely legally qualified chairmen of tribunals to which the State is not habitually a party, eg, Employment Tribunals. They remain eligible for any Security Appeal Tribunals, Immigration Tribunals and Mental Health review Tribunals.

Staff are strictly forbidden from being directly or indirectly engaged in activity:

- As a solicitor or agent for any party (apart from the Crown) in any proceedings;
- As a special constable;
- As a barrister or solicitor in private practice, apart from non-contentious family matters, without permission.

**85. Do judges receive a bonus based on the fulfilment of quantitative objectives relating to the delivering of judgments?**

No  
Yes                      **Please specify:**

**V. C. Disciplinary procedures**

**86. Types of disciplinary proceedings and sanctions against judges and prosecutors:**

We do not hold information in the way requested. Please, see explanatory note below.

	Judges	Prosecutors
Total number		

Reasons for disciplinary procedures	Breach of professional ethics (Yes/No) If yes, please specify the number		
	Professional inadequacy (Yes/No) If yes, please specify the number		
	Criminal offence (Yes/No) If yes, please specify the number		
	Other (Yes/No) If yes, please specify		
Types of sanctions	Total number		
	Reprimand (Yes/No) If yes, please specify the number		
	Suspension (Yes/No) If yes, please specify the number		
	Dismissal (Yes/No) If yes, please specify the number		
	Fine (Yes/No) If yes, please specify the number		
	Other (Yes/No) If yes, please specify		

\*\*\*

**You can indicate below:**

- **any useful comments for interpreting the data mentioned above**
- **the characteristics of your system concerning disciplinary procedures for judges and prosecutors**

#### **Discipline - 2004**

**The Lord Chancellor has powers, exercised with the agreement of the Lord Chief Justice, to remove a District or Circuit Judge and other full and part time judicial office holders, for misbehaviour or incapacity. This process would in practice be initiated only in the most serious cases, following an investigation undertaken by a judge nominated by the Lord Chief Justice at the request of the Lord Chancellor. Judges at the level of the High Court and above may only be removed by the Queen, on presentation of an Address from both Houses of Parliament.**

**The Lord Chancellor is also able to reprimand, warn or advise judicial office holders in relation to their personal conduct. He exercises this authority to ensure that judicial office holders uphold the standards of conduct which the public expects of them.**

**Disciplinary action taken by the Lord Chancellor can originate from a complaint made by a member of the public about the personal conduct of a judicial office holder, or from other sources, such as the outcome of investigations carried out by the police, or by professional bodies like the**

Bar Council or Law Society (who for example may make findings against part time judicial office holders for misconduct outside their judicial capacity). The Lord Chancellor can only investigate complaints about personal conduct and not those about judicial decisions. In general terms, people who are dissatisfied with the decision of a judicial office holder, or with the way in which a judicial office holder has conducted proceedings, can challenge this by way of appeal to a higher court.

We do not hold figures on disciplinary action taken by the Lord Chancellor in the format requested by Question 86. In 2004, the Lord Chancellor took formal disciplinary action against 41 judicial office holders. This covers action taken against judges, magistrates, tribunal members and coroners, and includes figures for both removals and lesser disciplinary action. [NB – data for each of these jurisdictions was, until the beginning of 2005, not recorded consistently, and it is possible that one or two cases are not captured by this figure.]

## VI. Lawyers

87. **Number of lawyers practising in your country** 106,486  
*Year: 2004*  
*Source: The Law Society*

88. **Does this figure include legal advisors (solicitors or in-house counsellor) who cannot represent their clients in court?**

Yes No

89. **Do lawyers have a monopoly of representation:**

	Monopoly (Yes/No)		If no, possible representation by (Yes/No)	
Civil cases*	No		Member of family	
			Trade Union	
			NGO	
			Other	Any suitable person approved by the Court
Criminal cases*	Defendant		Member of family	
			Trade Union	
			NGO	
			Other	
	Victim		Member of family	
			Trade Union	
			NGO	
			Other	Any suitable person approved by the Court
Administrative			Member of family	
			Trade Union	

cases\*

NGO

Other

\* If appropriate, please specify if it concerns first instance and appeal.

90. Is the lawyer profession organised through?

Yes

- a national bar?
- a regional bar?
- a local bar?

Please specify:

Yes, there is the Law Society in England and Wales for solicitors and the Bar of England and Wales for barristers.

91. Is there a specific initial training or examination to enter the profession of lawyer?

Yes

No

92. Is there a mandatory general system for lawyers requiring continuing professional development?

Yes

No

93. Is the specialisation in some legal fields tied with a specific level of training/ qualification/ specific diploma or specific authorisations?

No

Yes

Please specify:

94. Can users establish easily what the lawyers' fees will be?

Yes

No

Comment:

Lawyer's fees are individually negotiated. If litigants think they have been overcharged for a service, the Law Society can intervene and regulate the solicitor's fees.

95. Are lawyers fees:

Yes

- regulated by law?
- regulated by Bar association?
- freely negotiated?

Comment:

Solicitors fees are freely negotiated but through a Law Society remuneration certificate or court assessment, these fees can be queried. The fee for a solicitors service is a contract between the solicitor and the client.

96. Have quality standards been formulated for lawyers?

Yes No

**97. If yes, who is responsible for formulating these quality standards:**

Yes

- the bar association?
- the legislature?
- other?
- 

**Please specify:**

The Law Society regulates solicitors in England and Wales and will advise customers accordingly if they think they have been overcharged for a service.

**98. Is it possible to complain about :**

- the performance of lawyers? No  
Yes

**Please specify:**

**The Law Society's comment:**  
**If you want to complain about the service you've received from your solicitor, you must first discuss it with either your solicitor or the person in their firm who deals with complaints. All firms of solicitors must have procedures for dealing with complaints.**

**For solicitors, a complaint can be lodged in the form of an application and a statement delivered by the applicant to the Tribunal. The matter is then considered to see if a prima facie case is made out. In some cases, even where there is no complaint from the client, a solicitor can be reprimanded (for example, when an experienced member of the profession fails to adequately supervise a recently qualified solicitor). For barristers, the standard rule is that a complaint must be within 6 months of the event to the Complaints Commissioner with further recourse to the Legal Services Ombudsman if the complainant is not satisfied with the handling of the case.**

- the amount of fees? Yes No

**99. Disciplinary proceedings and sanctions against lawyers:**

	Yes /No (If yes, please specify the annual number)	
Reasons for disciplinary proceedings	Breach of professional ethics	Yes
	Professional inadequacy	Yes
	Criminal offence	Yes
	Other	
Type of sanctions	Reprimand	Yes
	Suspension	Yes
	Removal	Yes
	Fine	Yes
	Other	

Source:

<http://www.lawsociety.org.uk/professional/conduct/guideonline/view=page.law?POLICYID=771&PARENT=766>

**100. Who is the authority responsible for the disciplinary procedures:**

- Yes
- a professional body? Please specify:
  - the judge?
  - the Ministry of justice?
  - other? Please specify:

Yes, there is the Solicitors Disciplinary Tribunal.	
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*You can indicate below:*

- *any useful comments for interpreting the data mentioned above*
- *the characteristics of your system concerning the organisation of the Bar*

For extensive information see the following weblink:
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<a href="http://www.lawsociety.org.uk/home.law">http://www.lawsociety.org.uk/home.law</a>
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## VII. Alternative Dispute Resolution

**101. If appropriate, please specify, by type of cases, the organisation of the judicial mediation:**

	Compulsion (Yes/No)		Body providing mediation (Yes/No)	
Civil cases	Compulsory stage prior to court proceedings	No	Private mediator	Yes
			Public or authorised by court body	No
			Court	No
	Compulsory stage in court proceedings	No	Judge	No
	Ordered by judge in certain cases	no	Prosecutor	No
Family cases	Compulsory stage prior to court proceedings	No	Private mediator	
			Public or authorised by court body	
			Court	
	Compulsory stage in court proceedings	No	Judge	
	Ordered by judge in certain cases	No See comment	Prosecutor	
Administrative cases	Compulsory stage prior to court proceedings		Private mediator	
			Public or authorised by court body	
			Court	
	Compulsory stage in court proceedings		Judge	
	Ordered by judge in certain cases		Prosecutor	
Employment dismissals	Compulsory stage prior to court proceedings	No	Private mediator	
			Public or authorised by court body	
			Court	
	Compulsory stage in court proceedings	No	Judge	
	Ordered by judge in certain cases	No	Prosecutor	
Criminal cases	Compulsory stage prior to court proceedings	Not applicable	Private mediator	
			Public or authorised by court body	
			Court	
	Compulsory stage in court proceedings	Not applicable	Judge	
	Ordered by judge in certain cases	Not applicable	Prosecutor	



Q.101 Under the requirements of Community Legal Services Funding Code (Access to Justice Act 1999) to obtain public funding parties must consider if mediation might be a suitable way of solving disputes.

**102. Can you provide information about accredited mediators?**

**It is not clear what this question is asking. England and Wales does not have a statutory accreditation scheme for mediators. However the Civil Mediation Council has just introduced a pilot accreditation scheme on 7 December 2005.**

See: [www.civilmediation.org](http://www.civilmediation.org)

**103. Can you provide information about the total number of mediation procedure concerning:**

- **civil cases?**
  - There are 6 court-based mediation schemes currently operating in E and W – Central London, Birmingham, Exeter, Guildford, Cardiff, Swansea.
  - There is also the National Mediation Helpline [NMH].
- **family cases?**
- **administrative cases?**
- **employment dismissals?**
- **criminal cases?**

Information for other areas not provided in the time.

Source DCA

**104. Can you give information concerning other alternative dispute resolution (e.g. Arbitration)? Please specify:**

**ADR in England and Wales**

Ombudsmen, Regulators, Arbitration, Mediation, Neutral Evaluation, Conciliation, Expert Determination, Neutral Fact Finding, Mediation and Arbitration.

**You may in most of the situations have recourse to one or the other of these different types of ADR. For more information, please see the European Judicial Network website:**

[Http://www.europa.eu.int/comm/justice\\_home/ejn/adr/adr\\_eng\\_en.htm](http://www.europa.eu.int/comm/justice_home/ejn/adr/adr_eng_en.htm)

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***You can indicate below:***

- ***any useful comments for interpreting the data mentioned above***
- ***the characteristics of your system concerning ADR***

## VIII. Enforcement of court decisions

### VIII. A. Execution of decisions in civil matters

105. Are enforcement agents:

Yes

- judges?
- bailiff practising as private profession ruled by public authorities?
- bailiff working in a public institution?
- other enforcement agents?  
Please specify their status:

#### High Court Enforcement Officers (formerly Sheriffs)

Until 31 March 2004 enforcement of High Court writs was carried out by sheriffs. The appointment of sheriffs was governed by the Sheriffs Act 1887. High Sheriffs were appointed each year by HM the Queen for each bailiwick (that is the area within which the High Sheriff had responsibility – usually corresponding to a county of England or Wales). Although responsible for High Court enforcement within their bailiwick, the High Sheriffs were not involved personally in enforcement. Instead they delegated powers of enforcement to their Under Sheriff (normally a practising solicitor) and to his Sheriff's Officer (who, with their bailiffs carried out the day to day enforcement work). They had a monopoly to execute High Court writs of fieri facias (that is a writ of execution to enforce the payment of a debt when judgment has been entered against the debtor) and also writs for possession and return of goods.

Since 1 April 2004, High Court Enforcement Officers have carried out enforcement of High Court writs. These are enforcement professionals who are appointed by the Lord Chancellor to carry out enforcement within certain postal districts. Their appointment and powers are governed by section 99 and schedule 7 of the Courts Act 2003, and the High Court Enforcement Officers Regulations 2004. They have to meet numerous criteria before being considered suitable for appointment, covering such issues as qualifications, financial probity, membership of a professional association, and commitments to diversity and a suitable conduct and discipline procedure.

As with sheriffs, High Court Enforcement Officers can enforce county court money judgments where the amount it is sought to enforce exceeds £600 and the creditor chooses to transfer the debt to the High Court for execution.

County court bailiffs, who are employees of the Court Service and therefore civil servants, deal with enforcement of judgments and/or orders made and registered in the county courts. They enforce warrants of execution, repossess land with warrants of possession and recover goods under warrants for return of goods. In addition, county court bailiffs carry out other duties, including personal service of documents and warrants of committal.

Certificated bailiffs are private bailiffs and are certificated under the [Distress for Rent Rules](#), and so are authorised by a Circuit Judge sitting in a county court. Distress for rent refers to the seizing of a tenant's goods by a landlord to secure payment of rent arrears without the intervention of the court. Under a number of other Acts certificated bailiffs are also permitted to enforce other specific debts such as council tax, non-domestic rates etc. These are the local taxes paid by householders and individuals to local government authorities.

Private Bailiffs are bailiffs who enforce debts where regulations do not stipulate that the debts should be enforced only by a High Court Enforcement Officer, county court bailiff or certificated bailiff. There are no qualifications required to become a private bailiff.

Magistrates' Courts: From 1 April 2001 Magistrates Courts Committees (MCCs) took over formal lead responsibility from the police for executing warrants issued against fine defaulters and those in breach of community sentences. Under the new

arrangements, it is for individual MCCs to determine how their warrants are executed. Some are employing their own civilian enforcement officers, others are contracting this work out to Approved Enforcement Agencies or back to the police, and some are using a combination of these methods. In addition, some MCCs still contract with private or certificated bailiffs (who are not necessarily Approved Enforcement Agencies) to execute distress warrants.

*Source: European Judicial Network Website*

[http://europa.eu.int/comm/justice\\_home/ejn/enforce\\_judgement/enforce\\_judgement\\_eng\\_en.htm](http://europa.eu.int/comm/justice_home/ejn/enforce_judgement/enforce_judgement_eng_en.htm)

106. **Number of enforcement agents** at least 4,000

*Source* Department for Constitutional Affairs

<http://www.dca.gov.uk/enforcement/enfrev01/repaa.htm>

107. **Is there a specific initial training or examination to enter the profession of enforcement agent?**

Yes No

108. **Is the profession of enforcement agent organised by?**

Yes

- a national body?
- a regional body?
- a local body?

109. **Can users establish easily what the fees of the enforcement agents will be?**

Yes No

**Comment:**

See in particular the following weblinks:

County Court: <http://www.hmcourts-service.co.uk/infoabout/fees/county.htm>

High Court: [http://212.137.36.113/publications/guidance/fees/civil\\_proceedings\\_fees1204.htm](http://212.137.36.113/publications/guidance/fees/civil_proceedings_fees1204.htm)

The current banded system for fees to issue a warrant of execution has been extended from two bands to three, and is based on the value of the judgment debt. Fees for other enforcement procedures have been rebalanced to reflect the cost of the work involved and to ensure uniformity between the Fees Orders. The cost of issuing a judgment summons has therefore increased. The cost of applying for a garnishee order and a charging order in the High Court has been reduced to the same level as in the county courts.

*Source:* Department for Constitutional Affairs

<http://www.dca.gov.uk/consult/civ-just/civilfee.htm>

## Further principles

Views are sought on the following principles, and/or any additional suggestions, that the Government proposes should be set out in primary legislation:

Fees should only be chargeable for a provable enforcement activity or expense connected with it;

Fees may be based, in whole or part, on the value of the debt or the value of goods seized or sold or proceeds of sale;

Fee scales should be transparent and enable debtors to understand their potential liabilities;

Fee scales should be published and provided to the debtor;

Fees between enforcement agency and creditors should be subject to negotiation and contract, but no fee shall be recovered from the debtor outside the statutory scheme.

110. Are enforcement fees:

Yes

- regulated by law?
- freely negotiated?

- based on the value of the judgment debt: individual

111. Is there a body entrusted with the supervision and the control of the enforcement agents?

No x

Yes

Which authority is responsible for the supervision and the control of enforcement agents:

Yes

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

Please specify:

There is not a body entrusted with the supervision and the control of enforcement agents yet. But under proposed regulation the DCA will create the Regulation for Enforcement Agents.

112. Have quality standards been formulated for enforcement agents?

No

Yes

Who is responsible for formulating these quality standards?

The Department for Constitutional Affairs expect that in order to obtain the relevant licence, applicants will:

- complete an application form;
- pay the fee prescribed by the Authority;
- provide evidence of adequate training and insurance as appropriate;
- hold up to date membership of an accredited professional association;
- be committed to working with the Authority and others to improve standards;
- declare that they are not an undischarged bankrupt, not insolvent, and not under liability in respect of overdue fines or court judgments;
- declare any business interests that could conflict with enforcement work;
- pass a criminal record check; and
- operate in line with the Code of Practice, in particular balancing duties to the creditor, debtor and the court.

We expect that an applicant for an interim licence will have to undergo the same checks and application procedures as an applicant for a full licence, with the exception of the completion of the training criteria. It is proposed that the regulation will be self-financing through the licence, approval or accreditation fees.

Following on from the criteria suggested for obtaining a licence we expect that to retain a licence, licence holders will:

- undertake on-going training to a required standard by an accredited training provider;
- follow the Code of Practice issued by the regulatory body for their category of licence;
- comply appropriately with requests from the Authority in line with their investigative and regulatory powers;
- display an identification card or badge issued by the regulatory body when undertaking their work; and
- have their name included in a public register of licensed enforcement agents.

#### Training and Certification

- Enforcement agencies must ensure that all agents, employees and contractors are provided with appropriate training to ensure that they understand and are able to act, at all times, within the bounds of the relevant legislation. This training should be provided at the commencement of employment and at intervals afterwards to ensure that the agent's knowledge is kept up to date.
- Enforcement agencies must ensure that all employees, contractors and agents will at all times act within the scope of current legislation, i.e. The Companies Act, VAT, Inland Revenue provisions, Data Protection, Health and Safety etc, and have an appropriate knowledge and understanding of it and be aware of any statutory obligations and provide relevant training.
- Enforcement agents should be trained to recognise and avoid potentially hazardous and aggressive situations and to withdraw when in doubt about their own or others' safety.
- Professional training/assessment should be to an appropriate standard, for example to that of the *NVQ for Civil Enforcement Officers*, or membership of the *Sheriffs' Officers Association*.
- Enforcement agencies must ensure that legislation restricting the enforcement activity to certificated bailiffs is complied with

See also National Standards of Enforcement Agents, available on the DCA website:  
<http://www.dca.gov.uk/enforcement/agents02.htm>

113. What are the main complaints of users concerning the enforcement procedure:

Yes      No

- no execution at all?
- lack of information?
- excessive length?
- unlawful practices?
- insufficient supervision?
- excessive cost?
- other?

The first 2 are the main reasons but all others apply

114. Has your country prepared or established concrete measures to change the situation concerning the enforcement of court decisions?

No  
Yes

Please specify:

There is pending legislation to introduce new bailiff laws currently awaiting a legislative slot.

115. Is there a system measuring the timeframes of the enforcement of decisions :

Yes No

- for civil cases?
- for administrative cases?

**Comment:**

These answers apply just for the case, only once enforcement has commenced. It is the creditor, who must take action.

116. As regards a decision on debts collection, can you estimate the average timeframe to notify the decision to the parties which live in the city where the court seats:

Yes

- between 1 and 5 days
- between 6 and 10 days
- between 11 and 30 days
- more: please specify

Source Civil and Family Procedures Branch of the Department for Constitutional Affairs

117. Disciplinary proceedings and sanctions against enforcement agents:

	Yes /No (If yes, please specify the total number)	
Disciplinary proceedings	Breach of professional ethics	Information not available
	Professional inadequacy	Not available
	Criminal offence	Not available
	Other	Not available
Sanctions	Reprimand	Not available
	Suspension	Not available
	Dismissal	Not available
	Fine	Not available
	Other	Not available

**You can indicate below:**

- any useful comments for interpreting the data mentioned above
- the characteristics of your enforcement system of decisions in civil matters
- 

Disciplinary proceedings and sanctions exist against enforcement agents. However, as these are usually carried out under the auspices of the relevant professional association rather than through the court system (Other than for criminal offences) Records are not kept as to the numbers of cases concerned.

For extensive information, see the following weblink:

[http://europa.eu.int/comm/justice\\_home/ejn/enforce\\_judgement/enforce\\_judgement\\_eng\\_en.htm](http://europa.eu.int/comm/justice_home/ejn/enforce_judgement/enforce_judgement_eng_en.htm)

## VIII. B. Enforcement of decisions in criminal matters

118. Is there a judge who has charge of the enforcement of judgments?

Yes  Please specify his/her functions and activities (e.g. Initiative or control functions):

No  Please specify which authority is entrusted with the enforcement of judgements (e.g prosecutor):

**It is the bailiff's and law enforcement officer's responsibility to enforce the judgment in criminal matters. See <http://www.hmcourts-service.gov.uk/infoabout/enforcement/index.htm>**

119. As regards fines decided by a criminal court, are there studies to evaluate the effective recovery rate?

No   
Yes  Please specify:

**Statistics are kept as to the successful recovery rate for criminal fines imposed by the magistrates courts.**

Source: Enforcement Team DCA

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*You can indicate below:*

- *any useful comments for interpreting the data mentioned above*
- *the characteristics of your enforcement system of decisions in criminal matters*

For extensive information, see the following weblink:

[http://www.dca.gov.uk/criminal/procrules\\_fin/rulesmenu.htm](http://www.dca.gov.uk/criminal/procrules_fin/rulesmenu.htm)

## IX. Notaries

120. Is the status of notaries:

Yes      No

- a private one?
- a status of private worker ruled by the public authorities?
- a public one?
- other?  
Please specify:

Source: The Notaries Society



121. Do notaries have duties:

Yes No

- within the framework of civil procedure?
- in the field of legal advice?
- to authenticate legal deeds?
- other?

If yes, please specify:

<http://www.somertonfletcher.co.uk/notarial1.htm>

122. Is there a body entrusted with the supervision and the control of the notaries?

No

Yes

Which authority is responsible for the supervision and the control of the notaries:

Yes

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

Please specify:

The Faculty Office is responsible for the supervision and control of the notaries.

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*You can indicate below:*

- *any useful comments for interpreting the data mentioned above*
- *the characteristics of your system of notaries*

## Notaries

A Notary is an ancient established profession, a member of the third and oldest branches of the legal profession in the United Kingdom. He or she is a qualified lawyer, usually a solicitor, who is appointed by the Archbishop of Canterbury and is subject to regulation by the Court of Faculties, one of the oldest courts of England.

Notaries are subject to similar professional rules as solicitors and are required to renew their practising certificates annually. They can only do so if they have complied with the rules. A Notarial appointment is a personal appointment held by each individual Notary.

### Qualification as a Notary

Qualification as a notary is open to all graduates, not just law graduates. All prospective Notaries are required to obtain a Diploma in Notarial Practice. Under the Courts and Legal Services Act 1990 the [Master of Faculties](#) has the power to set the necessary qualifications.

Special provision is made for lawyers from the EU who wish to practise in England and Wales . They are required to apply to the Notarial Qualifications Board for exemption from the qualifications required in England and Wales . They must then pass a competency test as a means of transferring the qualifications from their country of origin.

### Internationally recognised legal status

A Notary holds an official seal. Under the signature and official seal of a Notary, acts of a Notary are recognised as evidence of a responsible legal officer in most countries of the world.

### Duties of a Notary

Notaries undertake the following duties:

- Prepare, attest, authenticate and certify (for use anywhere in the world), deeds and other documents, under the signature and official seal of the Notary.
- To issue authentic copies of instruments which a Notary makes in public.
- To administer oaths and declarations for use in proceedings in England and Wales and elsewhere.
- To note or certify transactions relating to negotiable proceedings and to draw up formal papers relating to occurrences on the voyages of ships and their navigation as well as the carriage of cargo in ships.

### Further information

<http://www.thenotariessociety.org.uk/>

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123. Please indicate main orientations for reform and concrete measures which could improve the quality and the efficiency of your judicial system:

Constitutional reforms coming into force in 2006 will change the rôles between the judiciary and Government.

There are on-going reforms in civil, family and criminal justice.

The judicial appointments process is changing the way judges are appointed.