



JUDICIARY OF  
ENGLAND AND WALES

# The Lord Chief Justice's Report 2018



# The Lord Chief Justice's Report 2018

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## Introduction by the Lord Chief Justice

The rule of law is the bedrock on which all social, commercial and civic activity rests. A smoothly functioning system supporting the administration of justice by an independent judiciary is essential for the nation to flourish. In my first year in office, I have been more impressed than ever by the extraordinary dedication of our judges and magistrates to the administration of justice and the public we serve in increasingly difficult circumstances.

### The Court Estate

I have visited many courts across the country to meet judges, to hear first-hand what is on their minds and also to see for myself the state of our buildings. The public should not be expected to visit dilapidated buildings and neither is it reasonable to expect staff or judges to work in conditions which would not be tolerated elsewhere.

Last year, all of the money allocated to maintenance was spent, in contrast with relatively recent practice, and additional funding of almost £7m was made available by the Ministry of Justice. But the reality is that the backlog of urgent maintenance needed to ensure that all our buildings are in a decent condition will only be reduced by the injection of substantial funds.



## Morale

I view the low levels of morale within the judiciary with considerable concern. The poor state of many of our buildings is a contributing factor. So too is the increasing workload in most jurisdictions, and the reduction and high turnover of staff. With the Judicial Executive Board and the Judicial Office, I have been working to engage with judges at all levels and have put in place changes designed to improve morale. Importantly, we have involved judges directly in the development of the modernisation programme and worked hard with Government on the underlying causes of the difficulties we have faced in recruitment.

## Modernisation

We continue to work with HMCTS on the radical programme of reform for which the Treasury has agreed to provide the necessary resources. I prefer to talk about modernisation rather than reform, because it is about moving our courts and tribunals into the 21st century by undoing the neglect of many years.

It has been a priority to improve the way judges are involved in modernisation and to improve the way it is communicated to judges. The Judicial Ways of Working exercise has allowed all judges to provide their views on prospective change which affects their jurisdictions. We are working closely with HMCTS to develop reforms that will deliver improvements and will not compromise access to justice or open justice. I am grateful to the judges who have given their time to working on the detail of modernisation, and to officials at all levels in HMCTS for working collaboratively with us to achieve a successful outcome. The pace of modernisation is expected to increase over the coming year as we see more changes introduced locally along with digitalisation of court and tribunal processes. It is essential that the practical experience, expertise and insights available from the judiciary continue to be at the centre of the modernisation programme, to ensure that it works for the administration of justice.

## Recruitment

The well-publicised impossibility in filling vacancies in the High Court represents the tip of the iceberg. There is a need to recruit unprecedented numbers of judges over the next couple of years, including through several large-scale recruitment exercises. The JAC continues to maintain its high standards and the judiciary has become more diverse in age, background, gender and ethnicity. But action must be taken to resolve the fundamental problems identified by the SSRB in its recently published report<sup>1</sup>. I welcome Government's commitment to consider what changes might be made to the judicial remuneration package to address the particular issues highlighted by that report. Solving this problem quickly is vital to maintaining a respected and effective judiciary, so fundamental to the rule of law and to the vitality of the legal services sector.

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<sup>1</sup> I am very grateful for the considerable work undertaken by the judicial associations in providing evidence for consideration by the SSRB.



## Promoting the role of judges to the public

I remain concerned that for too many, their impression of the judiciary is informed by outdated media stereotypes which ignore the work done by thousands of salaried and fee-paid judges. A slow but steady process of widening understanding is underway, which we will build on over the coming year.

We have enhanced our schools programme. Judges and magistrates visit schools across the country to improve understanding of the courts and rule of law. Many students visit courts. I want to make it easier for schools to teach pupils about the justice system, how it really works and to offer the chance to talk to us. Our volunteer Diversity and Community Relations Judges reach many students each year, but I want to make this opportunity even more widely available by asking schools to consider inviting judges and magistrates to visit, and by offering new online resources<sup>2</sup> to schools that support the curriculum and careers conversations with students.

The film 'The Children Act' accurately highlighted some aspects of the work done in the Family Courts. The recent documentary 'Inside the Court of Appeal', looking at crime, also raised the profile of the work of the Court of Appeal (Criminal Division). Judges also increasingly talk to the media about the realities of judicial life.

## Conclusion

I am very grateful for the support and continued hard work of the Judiciary of England and Wales. I am grateful to the staff of HMCTS and to the staff of the Judicial Office for their work supporting the judiciary so that they may administer justice and uphold the rule of law. They all do so notwithstanding the increasingly difficult circumstances to which I refer above and with quiet determination.

# 1. Courts and Tribunals modernisation

The Lord Chief Justice remains grateful to those judges who have specific responsibilities for reform and to Her Majesty's Courts and Tribunals Service (HMCTS) for their commitment to implementing the modernisation programme.

The Courts and Tribunals Modernisation Programme has made progress in several areas since the last annual report was published, for example on the *Common Platform Programme* in crime, the *Single Justice Service* project in the Magistrates' Courts, the civil money claims litigants in person service, digital applications for divorce and for probate, and *Appeal Tracker* in the Social Security and Child Support tribunal. *Continuous Online Resolution*, once tested, should in many cases relieve parties of the necessity of attending a tribunal building.

## Estates

Early in 2018 the Government carried out a consultation, "Fit for the Future", about how HMCTS will organise and manage its estate. Responses to the consultation are being considered by ministers and a response is expected later this year.

Establishing Courts and Tribunals Service Centres (CTSCs) is a key element of the HMCTS modernisation programme. CTSCs will deliver administrative services, supporting local courts and tribunals where the majority of HMCTS staff will still work. The first two CTSCs, located in Stoke-on-Trent and Birmingham, are expected to open in January 2019. Civil Money Claims, Divorce, Social Security and Child Support and Probate will be the first services administered from CTSCs.

## Communication

In April 2018 *Judicial Ways of Working (JWOW)* documents summed up key areas of the reform programme for each jurisdiction and secured the collective responses of more than 10,000 judicial office holders. Over the summer, the senior judiciary have been using the responses from the JWOW survey and the views of the respective Judicial Engagement Groups to develop jurisdictional views on priority topics within the Reform Programme proposals. The judiciary is working with HMCTS to shape the next steps in the Reform Programme.

## Legislation

The Courts and Tribunals (Judiciary and Functions of Staff) Bill to support the Reform Programme is progressing through Parliament with the expectation that further legislation will be introduced to maximise the opportunities afforded by the modernisation programme.

## 2. Appointments and diversity

### Recruitment

A worrying number of positions in the High Court and Circuit Bench remain unfilled. While the impact on other levels of the judiciary is not yet clear, the senior judiciary are actively monitoring the situation and working closely with the Judicial Appointments Commission to improve the selection process, including a streamlined application scheme for appointments to the High Court. The intention is that the scheme should be echoed in the next deputy High Court Judge competition. The success of other changes that have been made to the recruitment process will be considered in 2019, at the conclusion of a number of large scale recruitment campaigns.

Efforts are underway to support the development of fee-paid judges who will constitute a major part of the pool of applicants for salaried office. For example, appraisals for Recorders (in crime) have been introduced, increasing the scope of judges appraised.

### Diversity

Between 2010 and 2018 the proportion of female judges in the courts increased by a little over a third from 21% to 29%. Around half of courts judges under 50 are women. 46% of all tribunal judges are now women and they make up more than half in all age groups under 60. The most recent High Court competition produced 10 judges, five of whom are women and two are solicitors. Three of the seven new Court of Appeal judges whose appointments were recently announced are women. Women increasingly occupy high profile positions, for example at the Old Bailey, where five of 11 judges are female.

BAME representation, amongst those who declare ethnicity, is 7% in the courts and 11% in the tribunals. Whilst less than overall BAME representation in society, it compares favourably with BAME representation in the working population of those over 40.

55% of magistrates are women and 12% declare themselves as BAME.

The Judicial Diversity Committee's 2017-18 Annual Report and 2018-19 Annual Plan reveal support for its initiatives from judges throughout England and Wales. Lady Justice Hallett's chairmanship has seen a programme of engagement with schools, work shadowing, mentoring, outreach, networking events and pre-application guidance. The committee plans to encourage actively a yet wider swathe of lawyer applicants and to offer career support.

Diversity and Community Relations judges and judicial role models forge links with charities and with schools. Thousands of young people either enjoyed a school visit by judges or have visited courts. The Magistracy is also active in schools in explaining the workings of the justice system. In June 2018, the Lord Chief Justice underlined opportunities for schools to engage with the judiciary, and [www.judiciary.uk/schools](http://www.judiciary.uk/schools) offers material for use by teachers.

## 3. Morale, welfare, training and discipline

The 2016 Judicial Attitudes Survey revealed low morale across the judiciary at all levels. A tiny proportion felt valued by Government (2%) and a worrying proportion felt disconnected from the senior judiciary. Other factors affecting morale are the significant reductions in the value of judicial remuneration (highlighted by the recent SSRB report), poor physical working conditions, increased workload and a reduction in support staff. There are concerns about welfare and training.

To address this, the Lord Chief Justice and members of the Judicial Executive Board have engaged with judges across the country, determined to tackle issues affecting morale where these are within the control of the judiciary. On other issues, the Lord Chief Justice has been working alongside other members of the senior judiciary, to press the Government for a resolution of the problems of remuneration, unsustainable rises in workload (particularly in family justice) and the condition of the estate.

### Welfare

A small number of members of the judiciary and their families are subject to threats, verbal abuse and, occasionally, physical attacks from litigants and members of the public. This has led to widespread concern. The Judicial Security Committee has taken steps to enhance judicial security, e.g. enabling judicial office holders to remove personal data on public documentation held by Companies House; issuing guidance on concealing digital footprints; and, liaising with HMCTS to introduce further security checks to prevent weapons and items that may be used as weapons being introduced into the courtroom. A new Judicial Harassment Protocol has been agreed with the National Police Chiefs Council to raise local police awareness and inform an appropriate police response to crimes committed against members of the judiciary by reason of, or connected with, their judicial office.

Many judges are obliged to cope with a relentless stream of cases involving serious sexual, physical and emotional abuse. An enhanced welfare programme has been introduced to ensure appropriate assistance and support. The programme includes an annual one-to-one welfare conversation with psychologists for judges identified as being at potential risk because of the nature of their caseload; telephone welfare support lines; and, e-learning sessions on resilience and stress management.

The necessity for strong leadership has been recognised. Senior leadership judges receive management, leadership and resilience coaching. All salaried judges are to be offered leadership conversations and are encouraged to discuss personal wellbeing and future career aspirations.

A disintegrating and poorly maintained court estate is seen by judges as demonstrating a low regard for the judiciary and the rule of law. Nominated judges have been made members of committees to make representations in the negotiations underway for a new Facilities and Management contract. In the meantime, a clear guide has been designed

to inform the judiciary upon how they may expect maintenance issues to be addressed swiftly and upon minimum levels of utilities and services which must be present for the operation of court and tribunal buildings.

## Training

The Lord Chief Justice's statutory responsibility for training is devolved to the Judicial College which trains 25,000 judges, coroners, tribunal members, magistrates, legal advisors and coroners' officers. In 2017-18, the College's 319 courses had 11,868 participants. Residential induction and continuation courses, seminars, e-diversity modules, case studies and the updated Equal Treatment Bench Book sit within a suite of materials. Face-to-face training is increasingly blended with e-learning. Online courses can be accessed through the Learning Management System which underwent significant overhaul in 2018.

Cross-jurisdictional training is well-received, and in 2019-20, the College expects to introduce a cross-jurisdictional induction course. Training topics include judicial ethics, communication, training trainers, leadership and management, appraisal and mentor skills, resilience and unconscious bias. Distance learning allows magistrates and legal advisors to train locally, capitalising on the mix of styles the College now deploys.

College publications include *Guidelines for the Assessment of General Damages in Personal Injury Cases*, the *Crown Court Compendium*, the *Tribunals Journal* and regular e-letters in crime, civil, and family, and for those sitting in Wales.

In 2018, England and Wales hosted the annual meeting of the Chairman and Executive Directors of the four judicial training institutes of Great Britain and Northern Ireland, joined for the first time by colleagues from Australia and Canada.

## Judicial Primers

The senior judiciary, with the Royal Society and the Royal Society of Edinburgh, has begun a programme to produce judicial primers designed to enhance understanding of expert evidence. Published to date are primers on forensic DNA analysis<sup>3</sup> and forensic gait analysis<sup>4</sup> and in preparation are those on statistics and probability, collision analysis, ballistics, and the scientific testing of drugs and alcohol.

The Royal Society continues to collaborate with the Judicial College on courses and seminars designed to improve understanding of science and the law.

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3 <https://royalsociety.org/~media/about-us/programmes/science-and-law/royal-society-forensic-dna-analysis-primer-for-courts.pdf>

4 <https://royalsociety.org/~media/about-us/programmes/science-and-law/royal-society-forensic-gait-analysis-primer-for-courts.pdf>

## Data Protection

The General Data Protection Regulation and the Data Protection Act 2018 wrought the greatest change to data protection law for 20 years. Guidance on the application of the new laws was provided by the Judicial College. The Data Protection and IT Security guidance for the judiciary was revised in advance of the introduction of the new laws and will be revised again later this year.

As processing of personal data by an individual court or tribunal acting in a judicial capacity was removed from the Information Commissioner's overview, the Lord Chief Justice and Senior President of Tribunals established a Judicial Data Protection Panel. The Panel will also supervise the data protection compliance systems for Judge Advocates-General, the Chief Coroner and coroners submitting to its jurisdiction. The Panel will promote the judiciary's awareness of data protection law, offer guidance and training, a system for investigation of complaints and, with the Information Commissioner, consider matters of mutual interest.

## Judicial Library and Information Service

This service provides legal information to 10,300 judicial office holders and legal advisers, and, at the Royal Courts of Justice library, a central legal research enquiry service. Last year, it provided over 45,000 print publications and handled over 2,500 research enquiries. Up-to-date law sits in an easily searchable online collection. A comprehensive training programme has been developed this year blending individual and group sessions with online resources, including videos and guides, to support the increased use of online resources. This also supports continuing modernisation of systems, including reduced duplication of print and online content to deliver better value for money.

## Discipline

The Judicial Conduct Investigations Office reports separately to Parliament. It is mentioned here since it supports the Lord Chancellor and Lord Chief Justice in their joint responsibility for judicial discipline.

## 4. Criminal Justice

On one hand, Crown Court disposals were higher than receipts in 2018, continuing the trend established in 2015; by the end of the financial year outstanding caseload in the Crown Court was at the lowest level since 2000. That has been achieved despite a year on year reduction in sitting days in the Crown Court. On the other hand, there is no doubt that the fall in Crown Court receipts has been driven largely by a reduction in the number of sexual offences and miscellaneous crimes against society coming before the courts<sup>5</sup>. Those cases which do come before the courts are taking longer and are more complex. There are well publicised problems affecting disclosure and limited resources for forensic services.

The scrutiny and interest which criminal justice attracts adds to the pressure on those working in a system which for many years has been asked to do more with less, as has been highlighted in recent public debate. During the legal aid dispute earlier this year, the judiciary worked hard to ensure cases were dealt with without diminution of the service to parties before the courts.

### Head of Criminal Justice

In October 2017, the Lord Chief Justice delegated the role of Head of Criminal Justice to the President of the Queen's Bench Division, Sir Brian Leveson.

Sir Brian and the Senior Presiding Judge, Lady Justice Macur, represent the judiciary on the Criminal Justice Board, at which emerging criminal justice issues are discussed at ministerial level across all relevant departments and agencies.

The judiciary is involved in initiatives to improve disclosure processes. It is represented on the National Disclosure Forum responsible for the National Disclosure Improvement Plan (NDIP).

### Court of Appeal (Criminal Division)

Over the year the Criminal Appeal Office received over 5,000 new conviction and sentence applications to add to the approximately 3,000 cases outstanding in the Office. The number of applications lodged by applicants in person continues to increase.

Despite these high numbers, there has been a steady and significant decrease in the waiting time for appellants to have their conviction appeals/referrals heard. This is a testament to the hard work of the judges who regularly sit in the court and the officials who support them.

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5 [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/734069/criminal-justice-statistics-quarterly-march-2018.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/734069/criminal-justice-statistics-quarterly-march-2018.pdf)

The court has heard several high-profile cases including appeals and applications based on the Supreme Court's judgment in *Jogee* (in which the Supreme Court changed the law of joint enterprise). Further, the court has sat in special constitutions – sometimes as five judges – to consider and clarify particularly complex areas of the law, including the householder defence in section 76 of the Criminal Justice and Immigration Act 2008, sentencing of historic sexual offences, terrorism and victims of human trafficking.

Disparate and complex sentencing legislation remains a cause for concern. On too many occasions, an unlawful sentence is imposed in the Crown Court and the mistake only noticed by a lawyer in the Court of Appeal Office when an appeal (on other grounds) is lodged. Lawyers from the Criminal Appeal Office have given valuable support to the Law Commission in their work on the draft Sentencing Code.

### Magistrates

The leadership structure and governance of the Magistracy has changed to reflect the structure of the courts and to bring the Magistrates' Courts into closer alignment with the Crown Court. There has been a continuing reduction in the overall number of magistrates. This reduction was a consequence of falling workload in the Magistrates' Courts due to increased use of out of court disposals and reduction in recruitment, combined with relatively consistent annual levels of resignations and retirements. Advisory committees are now able to recruit directly to the Family Court, an area which we recognise needs more magistrates. The development of a clear and consistent national recruitment process for magistrates is nearing completion and will be adopted by all advisory committees. A working group including magistrates and advisory committee members has been established to look at raising the profile of the Magistracy to attract a wider field of applicants, and to explore engagement with organisations and communities to improve further diversity within the Magistracy. The Magistracy has coped impressively with the adoption of new technology and ways of working.

### The Court Martial

The Ministry of Defence funded Lyons Service Justice Review of the Service Justice System should conclude in February 2019. Two Court Martial Centres (Portsmouth and Colchester) have already been closed to centralise cases at larger centres. The January 2018 Sentencing Guidance ensured that sentencing keeps pace with developments within the Armed Forces and with wider societal changes.



## Criminal Procedure Rule Committee

The Criminal Procedure Rules 2018 (Amendment No 2) are indicative of another busy year. This committee keeps the Criminal Procedure Rules under constant review. It reacts to legislative and case driven developments in the law and aims to produce an accessible and simple body of rules to support the criminal work undertaken in all courts with criminal jurisdiction. The committee drives the improvement of efficiency first described in the review published in 2015. The rules are supplemented by the Criminal Practice Directions issued by the Lord Chief Justice. Read together, they form comprehensive instructions and guidance.

## Sentencing Council

This has been the final year of Chairmanship by Lord Justice Treacy, the longest serving member to date. The Lord Chief Justice is indebted to him for ensuring authoritative, clear and comprehensive sentencing guidance to courts, the criminal justice system and the public. Lord Justice Holroyde will continue the ambitious programme of work.

Guidelines recently published include *Child Cruelty, Intimidatory Offences, Manslaughter, Overarching Principles: Domestic Abuse, Possession of Bladed Articles and Offensive Weapons and Breach Offences*. Most impressively, in the face of a raised threat, the Council produced a guideline on *Terrorism Offences* in only 15 months. The Sentencing Council produces its own Annual Report.<sup>6</sup> Amongst its current projects is work on the impact of mental health on sentencing.

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6 [https://www.sentencingcouncil.org.uk/wp-content/uploads/SC\\_Annual\\_Report\\_2017\\_2018\\_WEB.pdf](https://www.sentencingcouncil.org.uk/wp-content/uploads/SC_Annual_Report_2017_2018_WEB.pdf)

## 5. Civil Justice

County Court claims have been increasing, with money claims rising by 21% in 2016/17 and a further 12% in 2017/18. This has led to an increase in the number of cases proceeding to a full hearing and coupled with shortages in civil judicial resources, there has been an adverse impact on the timeliness of cases being determined. Many judges who sit in the County Court also sit in the Family Court, which has its own pressures. A shortage of fee-paid judges has added to the difficulties. Significant recruitment of Recorders to sit in Civil, and of Deputy District Judges, is underway.

Judges have been balancing the pressures resulting from business as usual demands with helping to support and design reforms to the civil courts and wider civil justice system. The civil judiciary have been playing a critical role in the development of Online Civil Money Claims, which has produced encouraging early results in terms of take-up, accessibility and user satisfaction levels.

The Civil Executive Team has been overseeing work on increasing the number of cases that can be dealt with and retained by major regional court centres. There has also been engagement with wider civil justice reforms – including judges giving evidence to the Justice Select Committee on Government proposals to increase the small claims limit in personal injury cases and the effect this would have on the courts.

### **Court of Appeal (Civil Division)**

After years of relentless growth of the number of cases coming to the Court of Appeal (Civil Division) – 2,694 in 2009/10 to 4,770 in 2015/16 – the volume of applications for permission to appeal fell to 3,008 in 2017/18. This was largely driven by the fall in such applications in immigration and asylum cases, which was associated with a change in the rules to dispense with a near-automatic right to an oral hearing of a renewed application after refusal on paper. That procedure built in substantial delay.

Whilst there was also a reduction in the total number of disposals, this must be weighed against a backdrop of increasing case complexity, with appeal hearing times continuing to increase. Even with this increase in complexity, the number of appeal disposals outstripped applications for the first time in the ten years with comparable records. This has had the consequence of reducing the average time from application to disposal, improving access to justice.

Work continues on streamlining appeals, especially the unmeritorious, to reduce waiting times for hearings. Other reforms are designed to increase the use of mediation in appeal cases and to provide pro bono representation for litigants in person in more hearings.

Proposals are underway for the introduction of live-streaming of selected civil appeals from November 2018. This will increase the transparency and public understanding of the court's work.

## Business and Property Courts

Since October 2017 the specialist civil courts of England and Wales have been known collectively as the Business and Property Courts, operating on the basis of:

- Admiralty Court
- Business List
- Commercial Court
- Competition List
- Financial List
- Intellectual Property List
- Insolvency and Company List
- Property, Trusts and Probate List
- Revenue List
- Technology and Construction Court

Statistics<sup>7</sup> detail the number of international claims issued in the different courts and lists. For example, during 2017 in 78% of the 805 claims issued in the Commercial Court, one party was registered outside the UK and 79% of the 85 issued in the Patents Court had an international element.

The Business and Property Courts in Birmingham, Bristol, Cardiff, Leeds, Liverpool, Manchester and Newcastle are central to ensuring parties have their dispute heard conveniently to them, no matter the size of the claim.

## Queen's Bench Division and Chancery Division

The Business and Property Courts span both these divisions of the High Court. The Commercial Court maintains its international reputation as a destination of choice for international litigants. About a third of its work arises out of arbitrations, reflecting London's importance as a centre for international dispute resolution.

Both the Chancery Division and Queen's Bench Division continue to deal with high value and complex claims, not only in the areas covered by the Business and Property Courts, but across the whole range of civil litigation.

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7 [www.gov.uk/government/statistics/civil-justice-statistics-quarterly-april-to-june-2018](http://www.gov.uk/government/statistics/civil-justice-statistics-quarterly-april-to-june-2018)

In April 2017, a Media and Communications list was established to deal with defamation, privacy and confidentiality claims, data protection and harassment by publication.

The standing of our civil courts, of our legal profession and the very high international reputation of the judiciary make a significant contribution to the UK economically by attracting high value work to London.

The Government recognises the importance of this aspect of the work of the civil courts to the economy, and even more so in a post-Brexit world. The inability of the JAC to fill the vacancies in the High Court in four consecutive years is a particular worry in this context.

The electronic case management and filing system CE file (currently used in the Rolls Building Jurisdictions) is being extended into the Central Office of the Queen's Bench Division. It will be online by December 2018 and should be available for electronic filing from January 2019. This is an important development for professional users, particularly in light of the increased volume of issued claims with a large increase in foreign process. Facilities are in place to ensure litigants in person can receive assistance in using the system.

## 6. Family Justice

### Continued increase in public law cases

Following sharp rises in public law cases which started in the period 2015 – 2017, volumes have now stabilised at a new level, with a total of 19,246 public law cases started this year up to June 2018, representing the highest volume on record.

To address the high demand in public law cases, a higher number of family sitting days were allocated. However, despite judges taking on increased workloads, there are still too few judges to absorb all of the increases in case volumes seen since 2015.

This is leading to increased backlogs in work, and consequent increases in the time taken to dispose of cases. On average, care proceedings were disposed of in 28 weeks in 2017, over a week longer than the average in 2016. This worsening trend has continued, with disposal times exceeding 30 weeks in the second quarter of 2018, the longest they have been since the introduction of public law reforms and the single family court in April 2014.

### Continued rise in private law cases

A similar picture is seen for private law cases, with increased numbers now stabilising at around 50,000 cases started per year (most recently 50,358 this year up to June 2018), case numbers were last at this level in the 2013/14 financial year.

Again, lack of judicial resources meant that only 42,550 cases were disposed of, meaning that the outstanding caseload has continued to grow. This backlog is contributing to extended waiting times, with private law cases taking 26 weeks from being issued to final order, three weeks longer than the equivalent period in 2017. There is a perception that too many private law cases are coming to court, which would be better dealt with outside court.

Magistrates continue to make a vital contribution to the work of the Family Court. A recruitment campaign is underway to appoint magistrates to sit exclusively in the family jurisdiction.

### Domestic abuse – Practice Direction 12J

In October 2017, a revised Practice Direction 12J widened the definition of domestic abuse and introduced mandatory measures to stress the importance of avoiding orders which put a child at an unmanageable risk of harm.

### Support for vulnerable adults giving evidence – FPR Part 3A and PD 3AA

In November 2017, Family Procedure Rules 2010 supplemented by a Practice Direction sought to help parties and witnesses whose vulnerability might reduce their ability to participate or hamper the quality of their evidence. Measures included provision of intermediaries.

### **Anglo-Scottish judicial cooperation**

The then President of the Family Division and Lord Carloway, head of the Scottish judiciary, agreed a protocol for exchange of information between judges in intra-UK cross-border cases involving children in July 2018.

## 7. Administrative Justice

### The Administrative Court and The Planning Court

Improvements in Administrative Court Office practice and procedures now better serve litigants, practitioners and the judiciary. The Administrative Court Office Guide ('ACO Guide') (July 2018)<sup>8</sup> updated guidance on bringing judicial review. Feedback has been positive.

In July 2016, the Administrative Court ran a pilot scheme affording three senior case workers the opportunity to work under the supervision of Administrative Court lawyers to assist them with the exercise of their delegated powers. The pilot focused on providing assistance to the Extradition and Crime Team. During the pilot an unprecedented number of applications were turned around in an expedited timeframe, allowing court lawyers to exercise their delegated powers in a prompt and efficient manner. This meant that judicial time and resources were saved, allowing lawyers to focus on complex cases raising novel points of law. The success of the pilot resulted in the permanent recruitment of four senior case workers in April 2018, with an expansion of their role to provide support to other lawyer teams in the Administrative Court Office.

A cross-jurisdictional group ensures best practices and legal updates are exchanged amongst lawyers in the High Court and Court of Appeal, where live matters are in more than one jurisdiction. In an August 2018 pilot scheme, lawyers monitored so-called urgent applications so as to prevent abuse or misuse of the procedure.

There is an annual Administrative Law seminar for judges on law and procedure.

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8 <https://www.gov.uk/government/publications/administrative-court-judicial-review-guide>

## 8. Wales

### The Wales Act 2017

A “reserved-powers” model devolved new powers and competence to the National Assembly on 1 April 2018. The single legal jurisdiction of England and Wales continues to be a reserved matter per Schedule 7A Wales Act 2017. The first President of Welsh Tribunals, Sir Wyn Williams, took office in December 2017.

### Welsh Legislation

The Welsh Assembly has passed 59 pieces of primary legislation since 2007, and since 1999 made more than 4,600 Statutory Instruments. The Judges’ Council Committee for Wales monitors the impact on the judiciary of increasing levels of divergent legislation. The Wales Strategy Group put in place practical steps to help deal with Welsh Law.

The Lord Chief Justice is grateful to the Welsh Government for recognising the importance of timely notification to the judiciary of legislative change. The current notification system will be reviewed following introduction of the Justice Impact Tests the Welsh Government is providing to the Ministry of Justice. He also welcomes moves by the Welsh Government to make Welsh Statutory Instruments more readily accessible online.

### Welsh Language

The rights of court users in Wales to speak and use documents in Welsh in the civil courts is embodied in the Civil Procedure Rules. Already in place in the criminal courts, it is well underway for the Family Procedure Rules in December 2018.

Welsh is used in an increasing number of cases (795 in 2017-18). The Lord Chancellor’s Welsh Language Standing Committee defines ‘use of Welsh’ as in evidence, sentence or an administrative context, with the exception of the oath being taken in Welsh. Welsh-speaking circuit and district judges and district judges (Magistrates’ Court) who can conduct Welsh cases, comprise about one third of eligible judiciary. The Judicial College Welsh Training Committee plans to train judges with some Welsh, but insufficient confidence to conduct proceedings in Welsh. The College provides an e-letter for judges in Wales which is bilingual.



## 9. The legal profession

### The legal profession

#### LegalUK

In addition to being a major contributor to our nation's wealth, *LegalUK* strengthens the UK's global influence and its ability to promote the rule of law and fundamental rights. This vital national asset is founded on the stability, predictability and pragmatism of the Common Law and the quality and integrity of the judiciary. Alongside the judiciary sits the other fundamental pillar of the justice system: an independent, strong, diverse and effective legal profession.

The judiciary continues to support and promote the legal profession. In November 2017, the Lord Chief Justice, with the then Lord Chancellor David Lidington, spoke at the launch of TheCityUK's *Legal Services Report 2017: Legal Excellence, Internationally Renowned*.<sup>9</sup> The Lord Chief Justice welcomed the Report, noting its portrayal of the "vitality and importance of the legal services industry in this country, not only in London but throughout the rest of England and Wales, and in our sister jurisdictions in Scotland and Northern Ireland." Headline statistics include a contribution of £24.1bn to the UK economy (2015), a trade surplus of £4bn, and 311,000 jobs, two-thirds outside London.

#### The legal profession and legal services regulation

The judiciary has an inherent interest in the legal professions. Our adversarial system works only when advocates and litigators embody the highest standards of conduct and ethics and owe an overriding duty to the court. In recent years, nascent concerns have arisen about whether the constitutional position of the legal profession has always been fully or properly understood.<sup>10</sup> The judiciary has continued regular meetings with the representative and regulatory bodies to address these concerns.

The senior judiciary recognises the importance of maintaining and supporting a strong legal profession across the country. This is reflected in their commitment to ensuring serious and complex cases are heard throughout the country.

For the first time in many years, the Court of Appeal's Civil Division, the Master of the Rolls presiding, sat in Manchester for a week in 2017/18, and again for a week in Birmingham in October 2018. Further sittings in major regional centres are planned. The Lord Chief Justice presided over sittings of the Criminal Division in Cardiff in December 2017 and will do so again in Swansea in December 2018, with further sittings outside London being planned for next year.

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9 Lord Burnett's speech is available here: <https://www.judiciary.uk/wp-content/uploads/2017/11/lcj-thecityuk-report-launch-20171124.pdf> and the TheCityUK's Report is available here: <https://www.thecityuk.com/assets/2017/Reports-PDF/39ccc4245b/Legal-excellence-internationally-renowned-Legal-services-2017.pdf>

10 See the Lord Chief Justice's Report 2017 (<https://www.judiciary.uk/wp-content/uploads/2017/09/lcj-report-2017-final.pdf>) and Footnote 21

## The City of London

In July 2018, the City of London Corporation and HMCTS confirmed plans to develop a new court building in the square mile. This exciting project will deliver a modern 18 courtroom centre comprising Crown Courts, Magistrates' Courts and civil courts. The primary function of the new Crown Court will be to deal with fraud and related economic crime, including the expanding area of cyber-crime. When the courts are available, other criminal cases will be listed to ensure efficient use of the court. The new court will also deal with the work from the existing City of London Magistrates' Court. The civil work in the new court will replace the work currently undertaken at the Mayors' and City Court, with an emphasis on the lists from the Business and Property courts. The Corporation will appoint architects by the end of the year and design work will then begin, involving judicial nominees working alongside HMCTS and technical experts.

## 10. Working with Parliament, Government and UK Judiciaries

The Lord Chief Justice appeared before the House of Lords Constitution Committee in April 2018.<sup>11</sup> He stressed the importance of the relationship between Parliament and the judiciary to the proper functioning of the UK's uncodified constitution. He also identified his priorities: improving judicial morale, fashioning then implementing modernisation of the courts and tribunals, and increasing public understanding of what judges do and why the rule of law matters.

His evidence included the pressures of social media, working with the Ministry of Justice, and difficulties in judicial recruitment. He attended a private meeting of the House of Commons Justice Committee prior to his annual evidence in public later in the year.

The Lord Chief Justice has continued to meet informally and regularly members of both Committees and the Parliamentary Clerks supporting them. The strong working relationship between officials in the Judicial Office and the Parliamentary Clerks positions the judiciary as ready to assist Parliament within constitutional boundaries.<sup>12</sup>

Members of Parliament, Peers, and Parliamentary Clerks at the invitation of the judges visit courts and tribunals to see their work first-hand. The Industry & Parliament Trust with the Judicial Office runs a popular Fellowships scheme<sup>13</sup>. *Guidance to judges on MPs and the Courts*, for imminent release, will offer practical suggestions for MPs' court visits.

### Government

The Lord Chief Justice and other senior judges regularly meet the Lord Chancellor, Justice Ministers, the Permanent Secretary to the Ministry of Justice, the Home Secretary, the Attorney General and, *ad hoc*, other ministers and permanent secretaries. The Lord Chief Justice also meets the Prime Minister.

The Judicial Working Group allows for discussion between the judiciary and Government (underpinned by guidance<sup>14</sup>) on technical issues arising from the UK's withdrawal from the EU.

11 <http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/constitution-committee/lord-chief-justice/oral/82108.pdf>

12 [https://www.judiciary.uk/wp-content/uploads/JCO/Documents/Guidance/select\\_committee\\_guidance.pdf](https://www.judiciary.uk/wp-content/uploads/JCO/Documents/Guidance/select_committee_guidance.pdf)

13 <https://www.ipt.org.uk/Fellowships/Courts-and-Tribunals-Scheme>

14 <https://www.judiciary.uk/wp-content/uploads/2016/07/guidance-to-the-judiciary-on-engagement-with-the-executive.pdf>

**Justices of the UK Supreme Court, the judiciaries of Scotland and Northern Ireland and the UK Tribunals**

The Lord Chief Justice meets the President of the Supreme Court twice a month. They, with the Lord President of the Court of Session and the Lord Chief Justice of Northern Ireland, regularly discuss issues of common concern. The LCJ also works closely with the Senior President of the Tribunals.

# 11. Outreach and Communications

The Lord Chief Justice on his first day in office, 2 October 2017, recorded a video message for the judiciary website explaining directly to the public his objectives and priorities. He stressed that he wanted the breadth of judicial work to be better understood<sup>15</sup>.

Over the year, the Lord Chief Justice and other members of the judiciary have pursued this objective in a number of ways. In November 2017, at his first annual press conference, he explained all aspects of his role and discussed current issues with journalists. He has also given radio interviews.

In July 2018, the outgoing President of the Family Division, at a press conference on his last day in office, answered questions on family justice.

Broadcasting continued from some of the most important hearings and judgments in the Court of Appeal. The broadcasters' cameras were used to live stream a Lord Chancellor's swearing in ceremony for the first time on 18 January 2018, and footage from the cameras in court was shown as part of a one-hour ITV documentary following cases through the Court of Appeal (Criminal Division). Livestreaming will soon begin from the Court of Appeal (Civil Division).

Panels of High Court and circuit judges recorded videos for the judiciary website describing their working lives<sup>16</sup> and district judges are working on a similar project.

The Lord Chief Justice and other senior judges, in speeches to national and international audiences, underlined the value of the rule of law, as well as its consonance with modern approaches which position the user of the justice system centrally to its effectiveness.

These, with more judgments, summaries, and sentencing remarks, were published on the judicial website and sent directly to journalists.

In June 2018, the changed judicial website address, now [www.judiciary.uk](http://www.judiciary.uk), reflected the independent position of the judiciary by omission of "gov". The Lord Chief Justice uses the judicial intranet to speak directly to judges. It is also the primary channel for updates on reform.

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15 [https://www.youtube.com/watch?v=E\\_lkLFjpsqA](https://www.youtube.com/watch?v=E_lkLFjpsqA)

16 <https://www.judiciary.uk/about-the-judiciary/judges-career-paths/videos-high-court-judges-talk-about-their-work/>

## 12. International work

The judiciary's enviable reputation worldwide generates many requests from overseas for cooperation or help. To take account of Brexit and of the pressures on resources, in November 2017, the senior judiciary agreed a sustainable strategic approach to international engagement. Aims include the development of long-term relationships and rule of law globally. The Lord Chief Justice is grateful to the many judges who undertake international work in their own time.

Lord Justice Gross as Lead Judge for International Relations<sup>17</sup> ensured focus on maintaining relationships in Europe, gathering experience and influence in China and the Far East, developing the rule of law and supporting the national interest in the Middle East and North Africa, exploring opportunities in Central Asia, supporting the Commonwealth, training those changing to adversarial systems in Latin America, and providing aid and advice to parts of Africa.

There have been study visits by overseas judges, training overseas, conferences, bilateral meetings with other courts, roundtables and involvement with international judicial organisations.

The Standing International Forum of Commercial Courts (SIFoCC), launched in London last year and gathered in New York in September 2018, places the judiciary of England and Wales in the driving seat of international exchanges on commercial law.

Lord Justice Gross, Lady Justice Rafferty, and HHJ Andrew Hatton (Director of Training, Judicial College) were guests at the inaugural Day of the Iraqi Judiciary in January 2018. The Iraqi Chief Justice, inspired after his attendance at the 2017 Opening of the Legal Year in London, configured a ceremony to reinforce the independence of their judiciary. The three UK judges have been invited to the January 2019 ceremony.

The Lord Chief Justice attended the Commonwealth Magistrates and Judges Association Triennial Conference in Brisbane in September, and visited the Supreme Court of Singapore, where he saw a demonstration of how they are using technology to great effect.

### EU Exit

Work has continued this year to understand the impact of our withdrawal from the EU. The Judicial Working Group has held a number of technical discussions on the implications of EU withdrawal for the courts and tribunals from a judicial standpoint. The Brexit Law Committee brought together a range of organisations and the judiciary to provide insight from the perspective of the legal services sector. Other groups are looking at the direct impact on the courts and tribunals so that the judiciary is prepared for any changes to workload that arise under a new relationship with the EU.



