



JUDICIARY OF  
ENGLAND AND WALES

# Annual Report of the Technology and Construction Court 2019-2020



Annual Report of  
the Technology and  
Construction Court  
2019-2020



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Published by Judicial Office  
11<sup>th</sup> floor Thomas More Building  
Royal Courts of Justice  
Strand  
London  
WC2A 2LL

[www.judiciary.uk](http://www.judiciary.uk)

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# 1. Introduction

This report covers the work of the Technology and Construction Court (“TCC”) in England and Wales for the period from 1 October 2019 to 30 September 2020.

The TCC is a specialist court within the Queen’s Bench Division, and is also part of the Business and Property Court which sits in the Rolls Building. The TCC deals primarily with litigation of disputes arising in the field of technology and construction, and also (increasingly) procurement claims. The former includes traditional building cases, adjudication enforcement, engineering and technology disputes, claims for professional negligence, claims by or against local authorities concerning the development of land, dilapidations claims, nuisance claims, fire claims, IT disputes (relating to both hardware and software) and challenges to arbitrators’ decisions in respect of any of the above matters.

Procurement challenges are usually brought in relation to the letting of public contracts governed by the Public Contracts Regulations 2015, although other sectors have their own similar regulations. These require fairness, transparency and equality of treatment. Some also involve judicial review proceedings that are started in respect of decisions, and are issued in the Administrative Court. These cases are usually tried by a Judge of the TCC who is also a Nominated Judge of the Administrative Court.

In recent years the court has seen an increasing number of disputes which require technical input or which it is appropriate for the court to deal with because of familiarity with the subject matter, including complex computer and IT infrastructure disputes and renewable energy disputes. Following the Grenfell Tower fire, there has been a steady increase in cases concerning flammable cladding and other materials, together with more general fire protection issues.

Despite this, the court maintains an impressive through-put of cases and most cases that go to fully contested trials are resolved in less than about 12-18 months from issue to final judgment, although obviously this varies. Expedited trials can be accommodated, where justified, within as little as a few weeks. Adjudication business continues to be dealt with speedily and to a highly abridged timetable.

## 2. Global Pandemic: Covid-19

In March 2020, upon the reality of the pandemic setting in and the governmental imposition of a national lockdown, the professional landscape changed. The courts along with other industries, adjusted to remote working, immediately-aided by communication platforms such as Skype for Business, BT Meet Me, MS Teams, CVP (Cloud Video Platform) and Zoom. Trials and hearings were conducted remotely allowing a seamless continuation of pre-appointed trials and hearings, minimising delays. The eventual introduction of social distancing as a mandatory measure, necessitated that remote work be maintained for the foreseeable future. Where necessary the courts would offer live hearings, however minimising the attendees at court and honouring the social distancing rule. Hybrid hearings and trials were later introduced allowing parties to attend the trial partly 'in-person' and partly via a communication platform such as Skype, CVP or MS Teams. Upon review across all regions, court staff and users indicated an overall positive response to the transition. Although a return to in-person hearings is expected for trials and other substantial matters as social restrictions are lifted, it is likely that some remote working will be retained for shorter hearings, such as adjudication enforcement.



### 3. The Organisation of the TCC

TCC cases are managed and heard by specialist judges in London and at centres throughout England and Wales.

In London the cases are dealt with exclusively by High Court Judges, or specialist Queen's Counsel approved to sit as either Deputy High Judges or Recorders in the TCC.

In the centres outside London, cases are heard by Circuit Judges designated to hear TCC cases.

The main High Court Centre of the TCC is located at the Rolls Building in Fetter Lane near the Royal Courts of Justice and deals with all High Court TCC claims which are commenced in or transferred to London. The claims include those which arise anywhere in England and Wales as well those arising in jurisdictions overseas.

There are TCC Centres at courts or civil justice centres as part of the Business and Property Courts in Birmingham, Bristol, Cardiff, Leeds, Liverpool, Manchester, and Newcastle. There are other court centres which also have authorised judges to sit on TCC business. However, this is done on an as-needed basis and it is the TCC Centres as part of the Business and Property Courts that deal with the vast majority of the specialist work.

In London there is also the specialist TCC List in the Central London County Court, which is based in the Thomas More Building at the Royal Courts of Justice on the Strand. This deals with all London county court TCC cases. County court claims can also be issued at the regional TCC Centres.

The High Court judge in charge of the TCC ("the Judge in Charge"), although based principally in London, has overall responsibility for the judicial supervision of TCC business in all courts. Mrs Justice O'Farrell DBE has been the Judge in Charge since her appointment to this role, in succession to Mr Justice Fraser in March 2020.

## 4. The London TCC

### 4.1 Judiciary

The main High Court centre (“the London TCC”) operates from the Rolls Building.

The following High Court Judges sat regularly on TCC business during the period covered by this report (in order of seniority):

- Mr Justice Stuart-Smith- elevated to the Court of Appeal on October 2020
- Mr Justice Fraser
- Mrs Justice Jefford
- Mrs Justice O’Farrell- appointed Judge in Charge from March 2020
- Mrs Justice Cockerill
- Mr Justice Waksman
- Mr Justice Pepperall

From September 2020 Mr Justice Kerr has been sitting regularly on TCC business.

In addition, the TCC is able to call upon a number of deputy High Court judges who are authorised under s.9(4) of the Senior Courts Act 1981 (formerly the Supreme Court Act 1981) as well as Recorders who are authorised to carry out work as TCC judges under s.68(1)(a) of the Senior Courts Act 1981.

The availability of flexible listing arrangements is a necessity given the substantial workload, including applications arising from adjudications and arbitrations and Part 8 proceedings which must be dealt with urgently.

The case management powers exercised by the judges themselves are successfully deployed to ensure resolution of cases within as short a time as is fair and reasonably practicable.

### 4.2 Judicial Deployment

The need for judicial resources elsewhere means the London TCC judges spend some of their time in other courts.

Mrs Justice O’Farrell sat full time in the TCC for the majority of her time whilst Judge in Charge.

When commitments allowed, she also undertook general work as a Queen’s Bench Judge in London, including sitting in the Court of Appeal Criminal Division.

During the period covered by this report Mrs Justice Jefford was a Presiding Judge on the Wales Circuit, Mr Justice Stuart-Smith was a Presiding Judge on the South-Eastern Circuit and Mr Justice Pepperall was a Presiding Judge on the Midlands Circuit.

Additionally, the other London TCC judges sat in the Queen's Bench Division, the Administrative Court, the Court of Appeal Criminal Division, the Commercial Court, the Crown Court, the Upper Tribunal (Immigration and Asylum) and/or were sitting on circuit. These arrangements occur both by advance planning, part of the deployment of High Court Judges by the President of the Queen's Bench Division and also if judges become free when cases settle at a late stage.

### **4.3 Case Management**

The comparative figures for number of claims issued and number of trials show that the majority of TCC cases settle at some point between commencement and the date fixed for trial. Strong case management by TCC judges is one of the reasons for this.

An important feature of case management in the TCC is that at the first case management conference the date for the trial is fixed, usually at the earliest available date in the court diary for the required length.

This will usually have a significant impact on the timetable for all steps of the proceedings up to trial. Occasionally the parties ask the court to fix the trial for a later date owing to the complexity of the case and the nature and extent of the steps to be taken by way of pre-trial preparation. The court will usually accede to this request unless it considers it inappropriate to do so.

The case management bundle provided to the court for the case management conference includes the documents produced by parties in complying with the pre-action protocol. This allows the court to review whether there should be an opportunity, by way of stay or timetabling, for the parties to reach a settlement either by negotiation or ADR. Whether or not a stay is granted for this purpose will usually depend on the amount of time available; the court is reluctant to put back a trial date to accommodate a stay for ADR.

Equally where the dispute between the parties cannot be settled, the case management conference allows the court to consider how a determination of that dispute can be dealt with in the most appropriate way, taking into account the overriding objective of the Civil Procedure Rules.

For those cases covered by the Cost Management provisions in the CPR, costs budgeting and any Costs Management Orders are made at the first CMC too.

## 4.4 Administrative matters and CE-file

The London TCC is served by experienced court staff, some of whom have been with us for many years. A list of the current court staff at the London TCC and their functions are set out at the end of this report at Appendix 2. The court staff deal with numerous communications.

A small amount of correspondence is still received by email and/or handed into the Registry. In those instances, and where appropriate, these were returned to the sender to correctly file through the CE-File portal. The CE-File system has enabled better use of electronic working at the TCC. CE-filing is now available in all the Business and Property Courts across the regions.

It is mandatory for court users to file all required documents through the CE-File, which is accessible outside of business hours, saving time, costs and resource for all.

All users, including judges, staff, professional court users and the public can view these case records, file documents and monitor cases. Unless a party to the case, the viewing will be restricted to public documents only.

Court applications/draft orders to be considered by judges are assigned as 'alerts' through this system. Once approved by the judge, these are saved on the CE-File system and orders emailed to parties by the judges' clerks. As these form event records, a copy of all orders can be later retrieved, as required.

## 4.5 Marshalling Scheme

The TCC has an arrangement with the TCC Solicitors Association (TeCSA) and TECBAR for London TCC judges to take trainee or newly qualified solicitors, pupil barristers and barristers new to practice who are planning to practise in the field to act as marshals for a one-week period. The intention is that marshals read the papers, sit in court next to the judge and discuss the case with the judge out of court. During the COVID-19 pandemic, the scheme has continued mainly on a remote basis but the TCC has participated in the 'pupils in court' scheme operated through COMBAR to offer an opportunity to pupils to observe any in-person or hybrid TCC proceedings from the Bench. Those interested in the scheme should contact COMBAR.

## 4.6 Overseas Work

The TCC, in common with the Commercial Court, encourages overseas clients to bring their disputes to the TCC for resolution and a significant number of cases now have an overseas party or relate to a project overseas. The ability to do this – what is called ad hoc submission to the jurisdiction – is not always known about amongst all members of the international community.

The TCC judges have the necessary expertise and experience to deal with international work, having practised internationally before coming to the bench. It is understood that a number of overseas contracts now have jurisdiction clauses which expressly refer disputes to the TCC in the High Court in London. This is to be welcomed and reflects the respect in which the practice, procedure and judicial experience of the TCC is held internationally.

The court has been unable to arrange for foreign lawyers or judges to sit with a TCC judge when they are visiting London so that they can gain experience of the court but that has not stopped the conversations continuing and a number of virtual meetings and discussions have taken place with judges from France and Zambia.

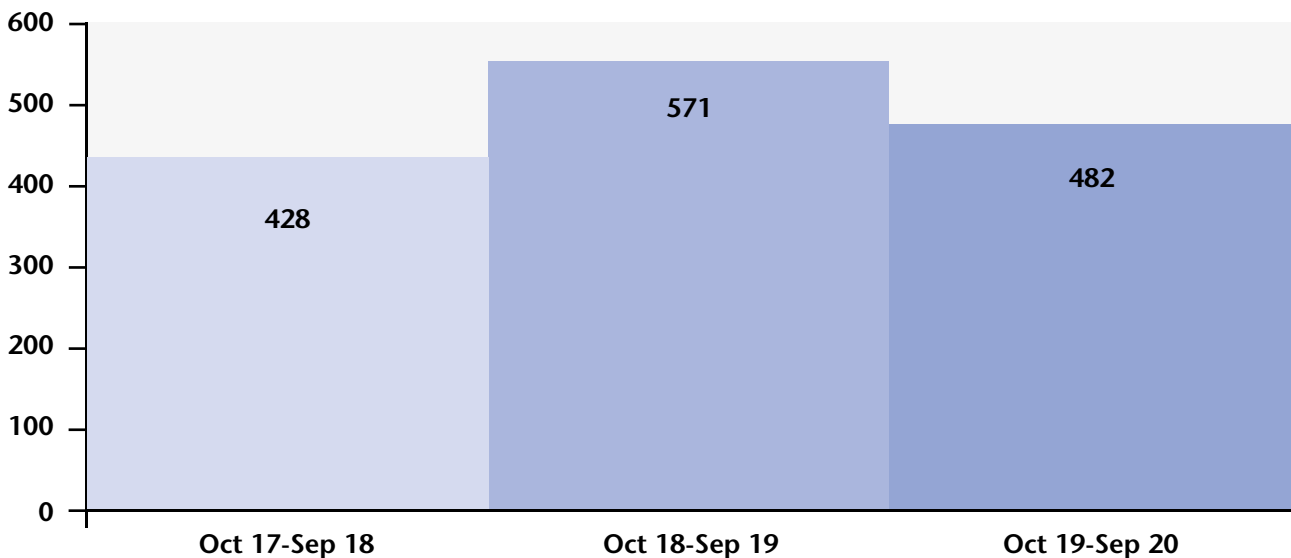
## 4.7 Claims

During October 2019 to September 2020 there were 482 new claims brought to the London TCC.

This represents a decrease of 18% from the previous year, where 571 new claims were registered.

The graph below shows the number of new claims brought to the London TCC from October 2017 to September 2020, as further comparison:

### Number of Claims



In June 2019, a decision was made to transfer some adjudication enforcement claims of lower financial value to the Central London Centre. The purpose was to advance the hearing dates for these and also deal more efficiently with the resources of the London TCC High Court Judges.

The criteria for transfer was based on a reasonable listing date being available at Central London, the claim value being under £1m and the complexity of the case, i.e. whether deemed Deputy suitable.

Between October 2019 to September 2020, a total of 48 adjudication claims were transferred to Central London.

## 4.8 Trials

A continuing feature for the TCC is that a substantial number of cases are settled shortly, or sometimes very shortly, before trial.

During the year there were 113 trials listed at TCC during the year, of which only 36 were eventually contested. This shows that 68% of cases settled or started and were settled before judgment.

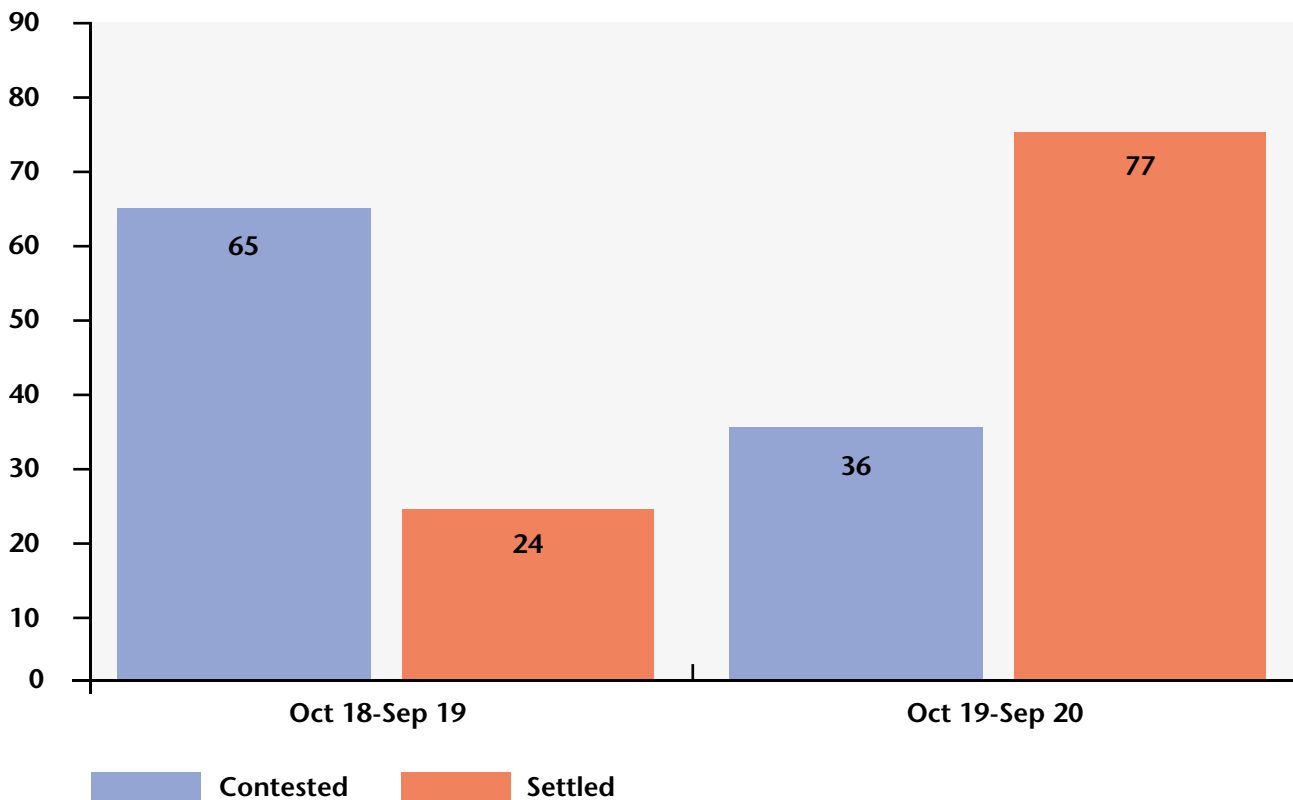
This figure compares to 27% the year before, so there has been a significant increase in number of trials settling this year.<sup>1</sup>

The following graphs illustrate the number of contested trials heard at London TCC from October 2018 to September 2020 and those that settled during the same period.

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<sup>1</sup> The TCC Annual Report 2018-2019 reports 169 trials were listed. This should read 89 trials listed, 65 contested and 24 settled between Oct 2018-Sept 2019.

### Contested and Settled Trials



### 4.9 Shorter and Flexible Trials

The aim of the Shorter Trial procedure is to reach trial within approximately 10 months of the issue of proceedings, and judgment within six weeks thereafter. The procedure is intended for cases which can be fairly tried on the basis of limited disclosure and oral evidence. The maximum length of trial is four days, including reading time.

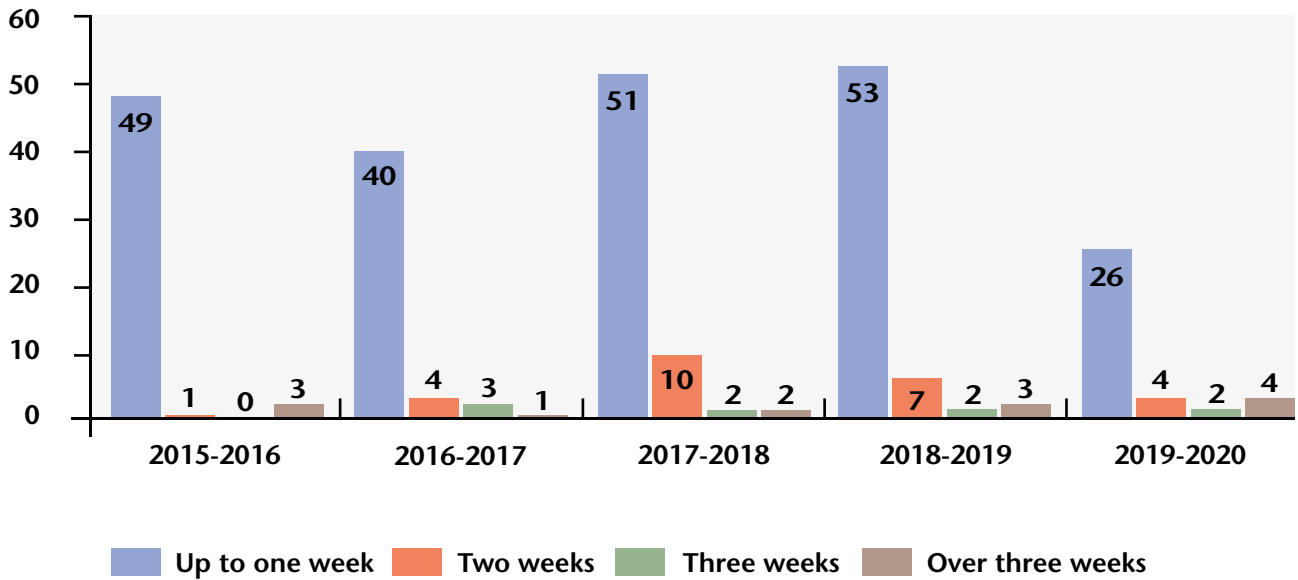
The Flexible Trial procedure involves the adoption of more flexible case management procedures where the parties so agree, resulting in a more simplified and expedited procedure than the full trial procedure currently provided for under the CPR.

The procedural rules for these schemes in the Business and Property Courts are set out in Practice Direction 57AB.

For London TCC the average length of trial in the period covered by this report has been eight days (excluding reading time). This shows a noticeable increase in comparison to the previous years where the average length of trial was three days. In the period covered by this report the TCC had one trial listed for 112 days. However, excluding the 112-day trial, the average length of trial in the TCC would be five days.

Below is a breakdown of the lengths of trials at London TCC from 2015-2016 to 2019-2020 as further information:

### Length of Trials



This shows a majority of shorter trials listed and that this is an upward trend.

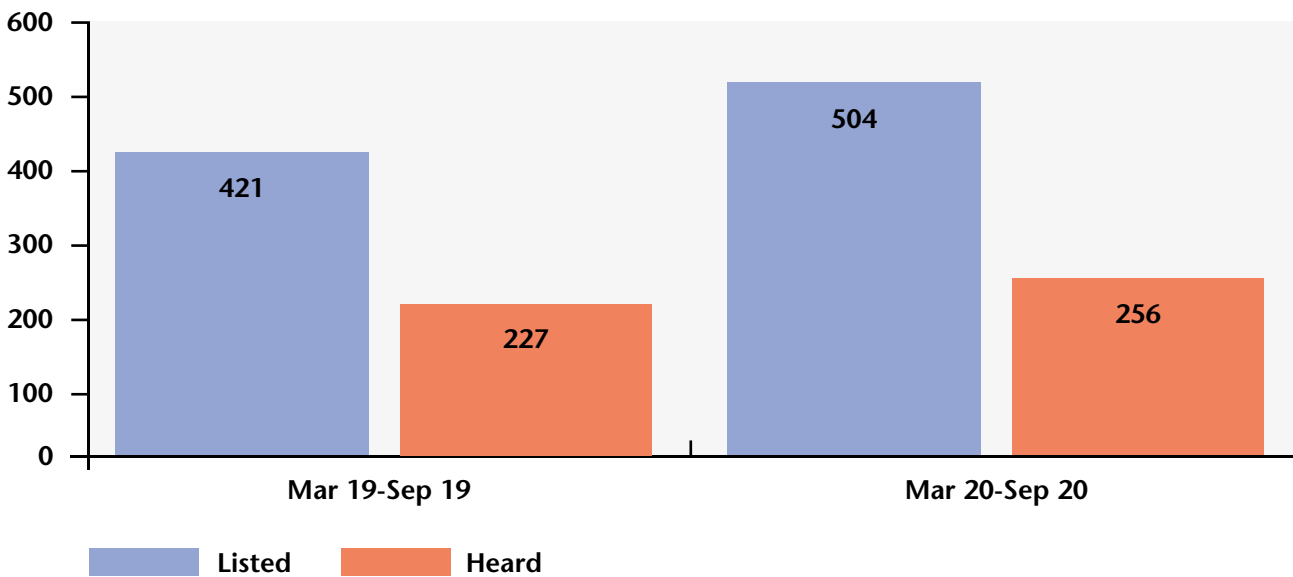


## 4.10 Lockdown period comparisons

The statistics collected for this report highlights there have been more settlements, fewer trials and shorter trials but more hearings in total during the period March 2020-September 2020 when compared with the same period for 2019.

Below is a breakdown comparing the number of hearings listed and heard between March 2020 and September 2020 (the remote working period) with the same period in the previous year.<sup>2</sup>

### Lockdown period comparisons



Despite the challenges of remote and hybrid working, there were considerably more hearings listed this year, the graph indicates that the lockdown period did not have an adverse impact on the TCC’s ability to deal with them.

Between March- September 2019, 54% of the cases listed were heard. Similarly, between March-September 2020, 51% of the cases listed were eventually heard, a slight increase in the total number of effective hearings.

<sup>2</sup> This includes all types of hearings except trials and judgments

## 4.11 Disclosure Pilot

A mandatory Disclosure Pilot Scheme commenced in the Business and Property Courts on 1 January 2019, initially for a two- year period, extended to the end of 2021 as set out in Revised Practice Direction 51U.

The disclosure pilot scheme was introduced to address the perceived excess cost, scale and complexity of the disclosure process. There is now an emphasis on co-operation between the parties and restricting the quantity of documents disclosed. What used to be called “standard disclosure” is no longer the default for disclosure in cases issued in the TCC.

There is also a significant shift towards documents being disclosed in electronic form.

Information and feedback is still being gathered to review the success of this pilot. Revisions to simplify the procedure are being considered. The experience of the Judges of the TCC is that many of the early difficulties have been resolved, the scheme is working well and has been welcomed by the parties to litigation.

## 4.12 Applications

During the year, 426 applications were dealt with at an oral hearing, including case management conferences, pre-trial reviews and specific applications. This compares to 372 the previous year which reflects a 15% increase.

Hearings varied in length, some were very short and some took more than one day. In rare cases in complex litigation, applications lasted up to four days.

Often preparation time by the court in advance of the hearing exceeds the hearing time itself but this preparation enables applications to be dealt with more rapidly and effectively.

In addition, written applications/correspondence were received and processed through the CE-file portal system.

Where an order is approved by a Judge, these are sealed on the CE-file system and emailed to parties.

The TCC encourages use of electronic applications as this saves time and costs, provided issues can properly be dealt with in this way, without prejudice to the parties by lack of oral argument.

The total number of orders sealed on the CE-file during the year was 1,812, which incorporates those approved following oral hearings and those processed as ‘alerts’/paper applications.

This compares to 1,513 the previous year. The increase of 20% reflects both the increase in workload and effectiveness of the CE-File system.

## 5. Central London Civil Justice Centre

The Central London Civil Justice Centre deals with all county court TCC claims which are brought in London.

His Honour Judge Parfitt was the principal TCC judge at Central London for the period covered by this report.

His Honour Judge Johns QC, His Honour Judge Backhouse, His Honour Judge Lethem, His Honour Judge Saunders, and His Honour Judge Monty QC also assisted and undertook some TCC work.

During the period October 2019 to September 2020 there were 142 TCC claims. Of those claims, 25 TCC cases were issued in the Central London County Court and 117 cases were transferred in from the High Court.

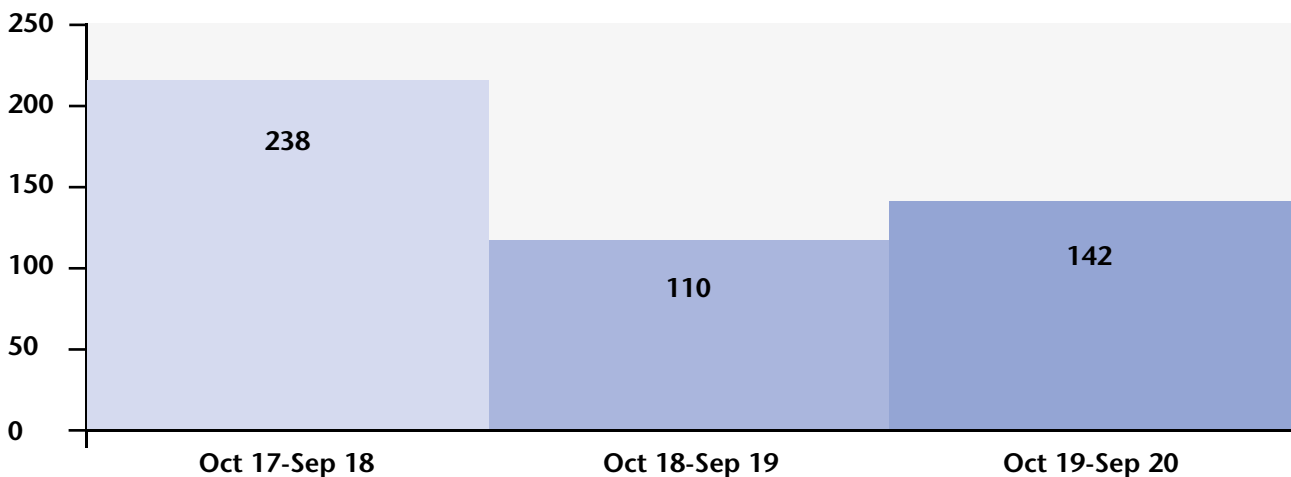
By contrast, there were 110 new claims processed the previous year, signifying an 29% increase in caseload.

Central London Civil Justice Centre highlight there have been more adjudication enforcement summary judgment applications transferred from the High Court to the County court, explaining the increase in claims this year.

There have been no TCC hearings vacated by the courts as a result of Covid-19 as the remote hearings have worked well for court users and staff. From March 2020, the court proceeded to hear all planned hearings remotely using BT Meet Me, Skype for Business, MS Teams, CVP (Cloud Virtual Platform) and hybrid hearings.

The graph below shows the number of new TCC claims brought to the Central London Civil Justice Centre from October 2017 to September 2020, as further comparison:

### Central London



## 6. TCC Centres outside London as part of the Business and Property Courts

The extent to which statistics for TCC work can be isolated from the general statistics for court work outside London depends upon the administrative arrangements at individual court centres.

What follows is a summary of the TCC data provided by certain court centres outside London during the period 2019-2020.

Figures from October 2017 to date have also been included for comparison purposes.

### 6.1 Birmingham

The TCC court is part of the Business and Property Courts based in the Birmingham Civil Justice Centre.

Her Honour Judge Sarah Watson was the full-time principal TCC Judge for the period of this report.

There are other specialist judges (who sit in TCC, Mercantile and Chancery) authorised to sit in all jurisdictions in the Business and Property Courts, if required. During the period of this report HHJ Simon Barker QC, HHJ McCahill QC, HHJ Worster were authorised to sit in the TCC.

In October 2020, HHJ Rawlings and HHJ Williams were appointed following HHJ Simon Barker and HHJ McCahill QC's retirement.

During the period October 2019 to September 2020 there were a total of 89 new TCC claims categorised as 59 new High Court claims and 30 County Court claims; this number is broken down further as 81 cases issued at the Birmingham TCC and 8 cases transferred in.

In contrast there were 68 new claims received the previous year, so the workload slightly decreased.<sup>3</sup>

The Covid-19 pandemic has not had a significantly detrimental impact on the number of hearings at the court as the number of hearing days during the period of January 2019- December 2019 was reported as 81 days in comparison to January 2020- December 2020 which was 77 days.

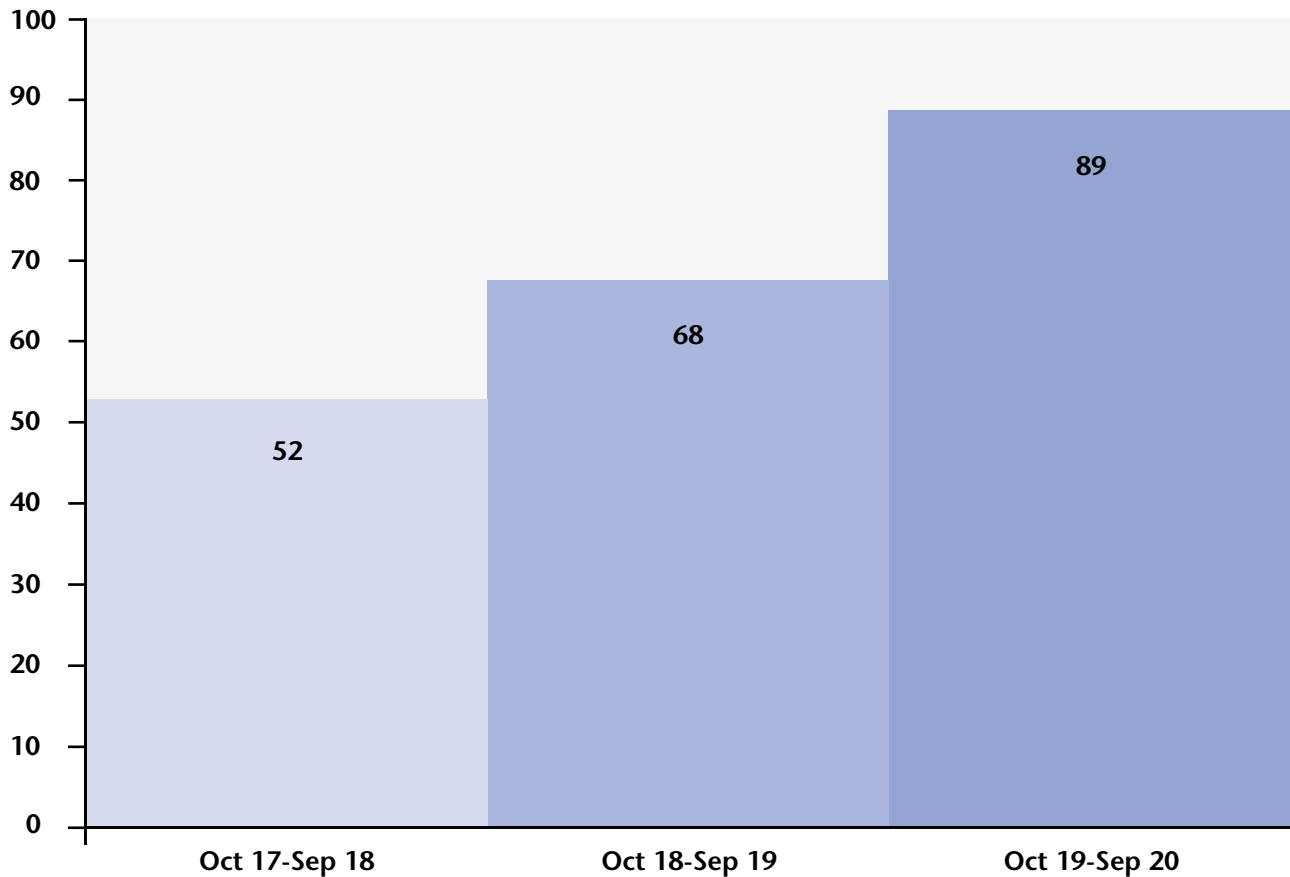
Since March 2020 the court proceeded to hear all planned hearings remotely using BT Meet Me or Skype for Business. No TCC hearings were cancelled or vacated by the Judges or the court during the period of this report.

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<sup>3</sup> The TCC Annual Report 2018-2019 only reported Birmingham high court claims, this year county court claims have also been reported

The graph below shows the number of new TCC claims brought to the Birmingham Civil Justice Centre from October 2017 to September 2020, for comparison:

## Birmingham



## 6.2 Bristol

The TCC court is part of the Business and Property Courts based in the Bristol Civil Justice Centre.

His Honour Judge Russen QC was the principal TCC judge at Bristol during the period covered by this report.

HHJ Cotter QC is a specialist judge in this region who also holds a TCC ticket however, has not had much involvement this year.

During the period October 2019 to September 2020 there were 38 new TCC claims, 7 of which were adjudication enforcement claims.

In contrast there were a total of 49 new claims received the previous year, so the number of claims has notably decreased.

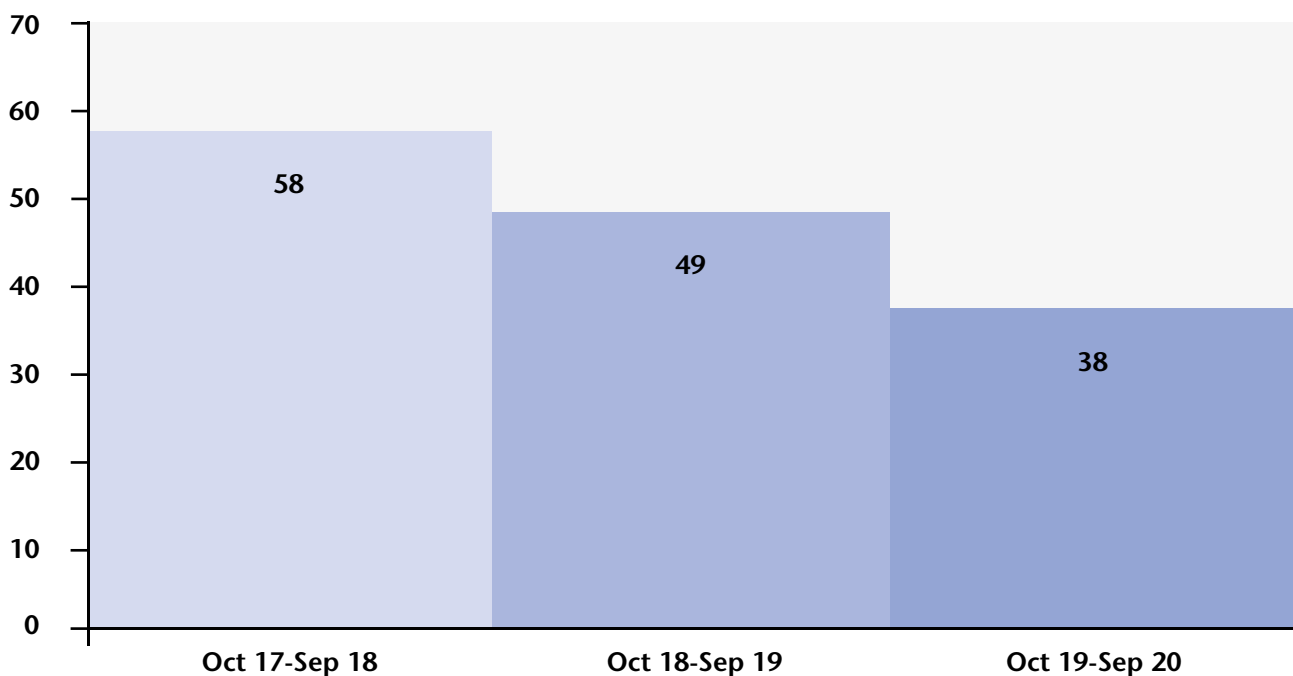
Since March 2020 the court proceeded to hear all planned hearings remotely using BT

Meet Me, Skype for Business, MS Teams or CVP (Cloud Video Platform) and parties have been in favour of remote hearings.

The court adapted well to the change from physical to remote hearings, although faced with technological issues at the beginning of the transition. Since then staff and users have become accustomed to remote hearings. There were some issues regarding inadequate bandwidth at Bristol Court, but they have adapted well, and IT tests were arranged before court hearings to prepare parties and attendees.

The graph below shows the number of new TCC claims brought to the Bristol Civil Justice Centre from October 2017 to September 2020, for comparison:

### Bristol



### 6.3 Cardiff

The TCC court is part of the Business and Property Courts based in the Cardiff Civil Justice Centre. The judges based there also sit regularly in Mold Justice Centre and hear TCC cases in courts throughout Wales as required

His Honour Judge Keyser QC was the principal TCC judge at Cardiff during the period covered by this report. HHJ Jarman QC and DJ Hywel James also assisted.

During the period October 2019 to September 2020 there were 18 new TCC claims. This is broken down further as 17 cases issued at the Cardiff TCC and one case transferred in from County Court Money Claims Centre.

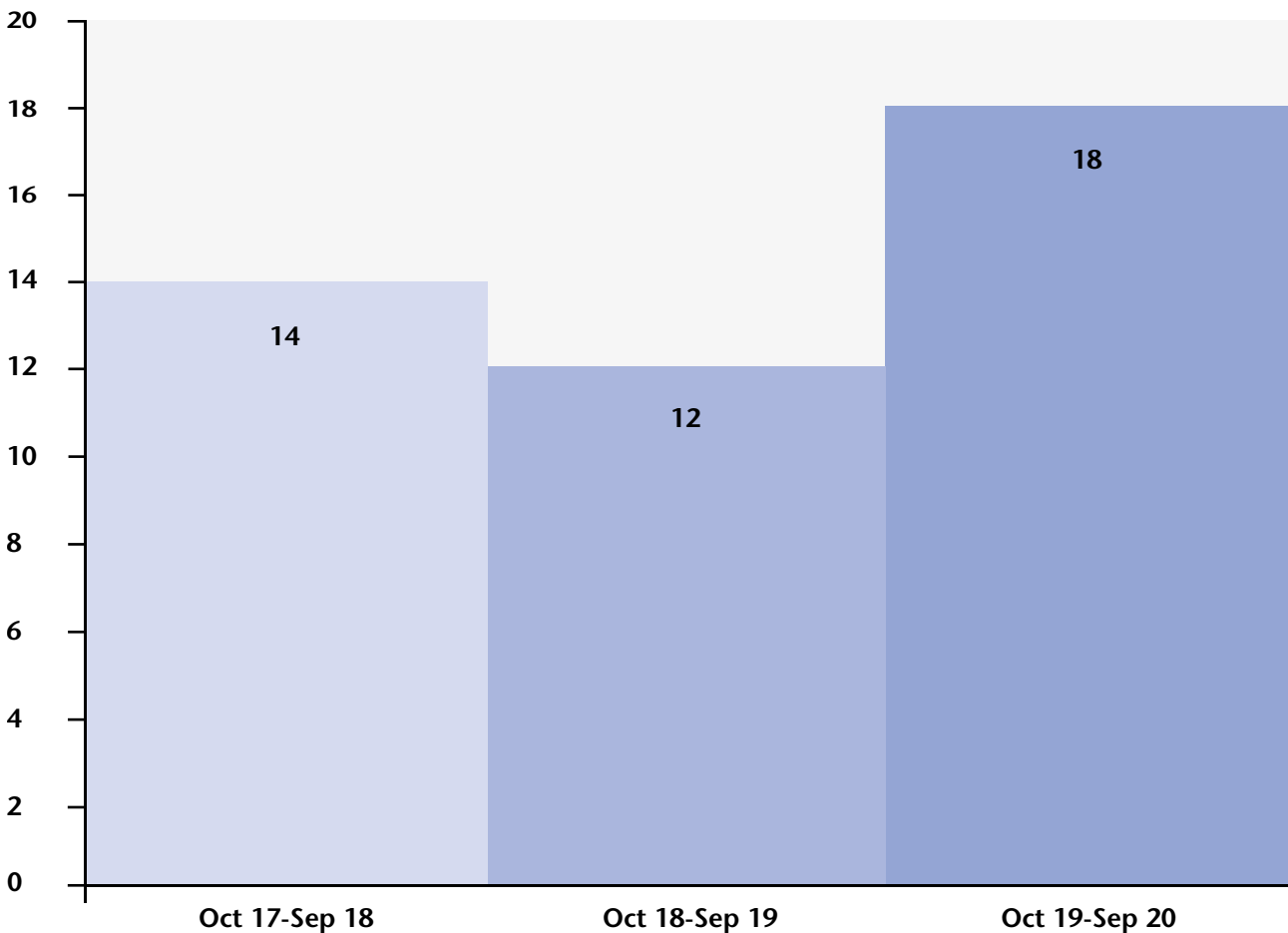
This is comparable to the previous year, where 12 new claims were received.

There have been no TCC hearings vacated by the courts as a result of Covid-19 as the remote hearings have been working well for court users and staff. Since March 2020 the court proceeded to hear all planned hearings remotely using BT Meet Me, Skype for Business, MS Teams, CVP (Cloud Virtual Platform) and hybrid hearings.

HHJ Keyser QC commented that he had a 6- day trial via Skype for Business without any difficulty, and counsel had expressed the view that it was every bit as good as a face-to-face hearing.

The graph below shows the number of new TCC claims brought to the Cardiff Civil Justice Centre from October 2017 to September 2020, for comparison:

### Cardiff



## 6.4 Leeds

The TCC court is part of the Business and Property Courts based in the Leeds Combined Court Centre.

His Honour Judge Raeside QC was the principal TCC judge at Leeds until March 2020. HHJ Malcom Davis-White QC and HHJ Jonathan Klein also assisted.

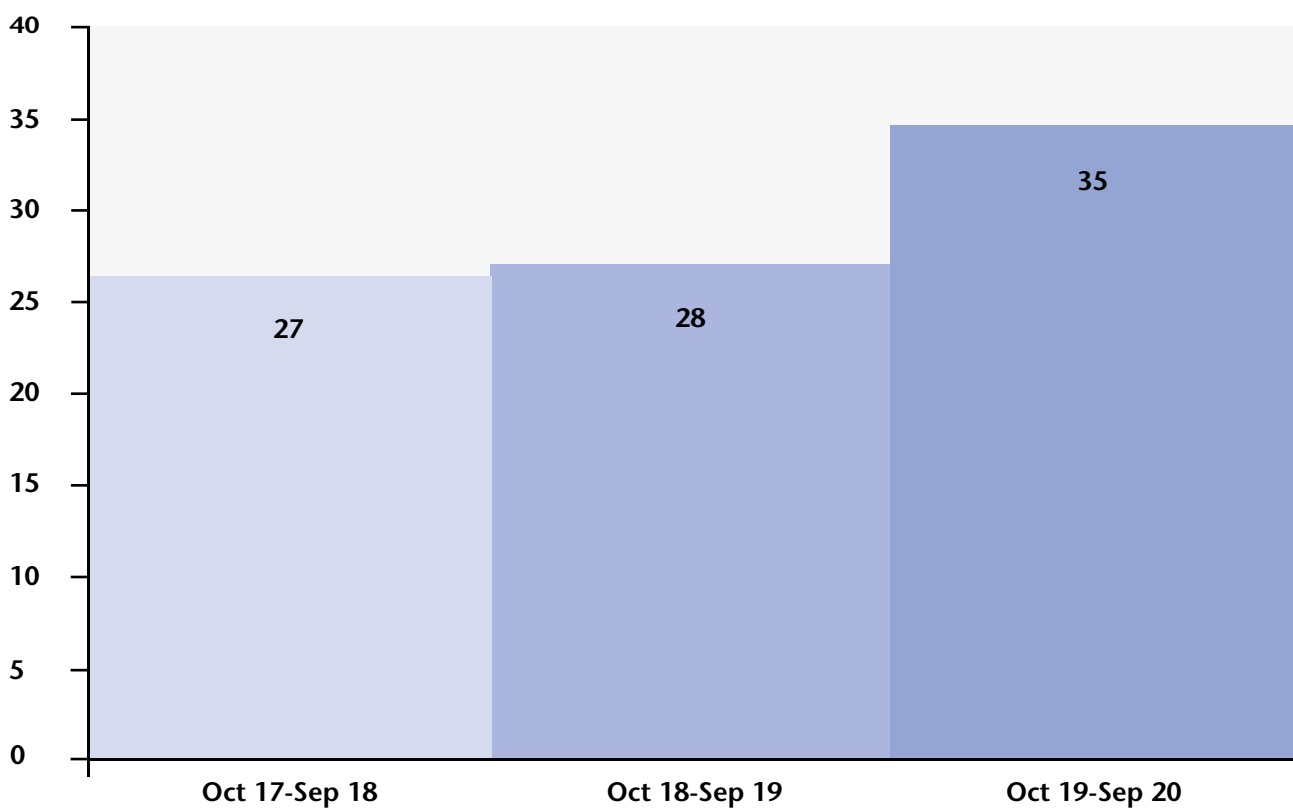
During the period October 2019 to September 2020 there were 27 new TCC claims. This is broken down further as 11 County Court cases and 16 High Court cases.

In contrast there were 28 new claims received the previous year so, figures have remained relatively consistent.

Since March 2020, no TCC hearings have been vacated by the courts due to Covid-19 restrictions as remote hearings have been working well for court users and staff. The court has proceeded to hear all planned hearings on a remote basis

The graph below shows the number of new TCC claims brought to the Leeds Court from October 2017 to September 2020, for comparison:

### Leeds





## 6.5 Liverpool

The TCC court is part of the Business and Property Courts based in the Liverpool Civil Justice Centre.

His Honour Judge Wood QC and His Honour Judge Cadwallader was the principal TCC judge at Liverpool during the period covered by this report.

District Judge Baldwin, is the specialist DJ Judge in Liverpool, dealing with case management claims.

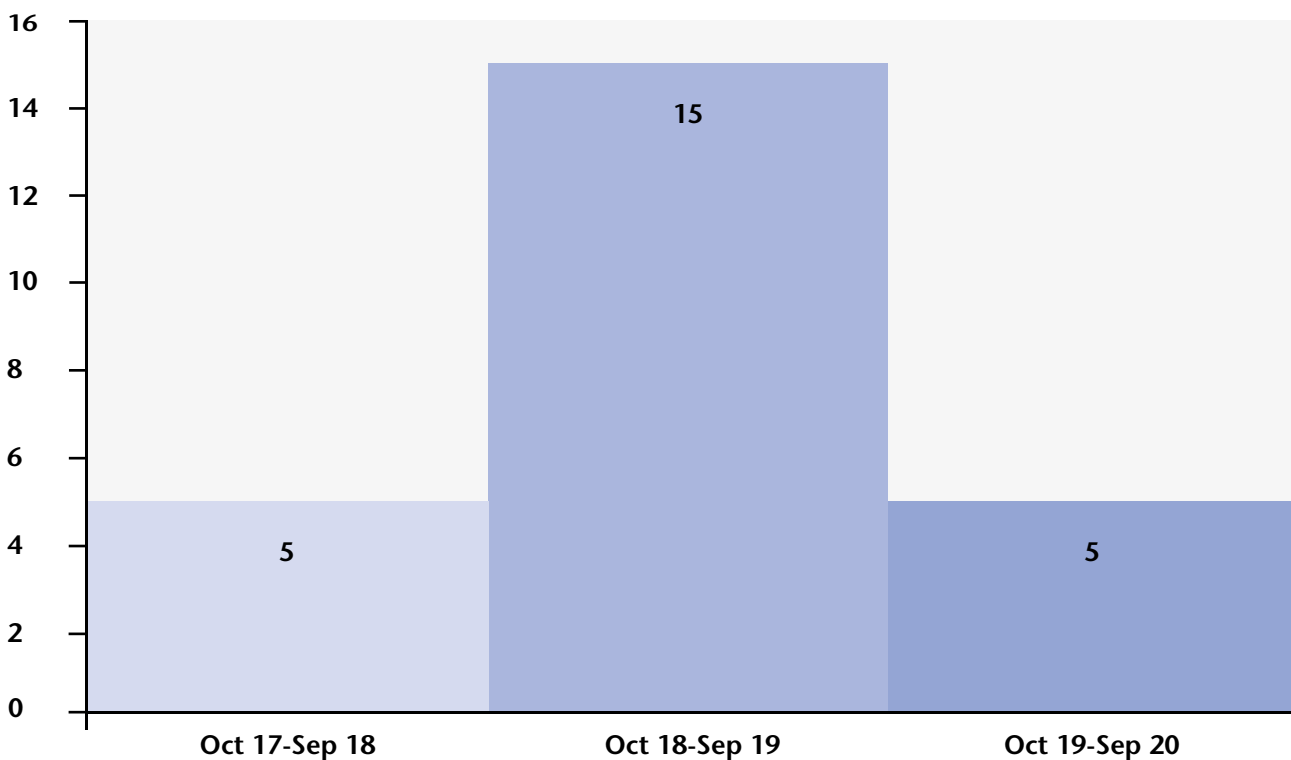
During the period October 2019 to September 2020 there were 5 new TCC claims. This is broken down further as 4 cases issued and 1 transferred into the court from TCC London (Rolls Building).

In contrast there were 15 new claims received the previous year, so the number of new cases has notably decreased. This difference is not necessarily linked to Covid-19 as the statistics provided this year coincides with statistics from Oct 2017- September 2018 which reported 5 claims.

Since March 2020, no TCC hearings have been vacated by the courts due to Covid-19 restrictions as remote hearings have been working well for court users and staff. The court has proceeded to hear all planned hearings mainly using MS Teams.

The graph below shows the number of new TCC claims brought to the Liverpool Civil Justice Centre from October 2017 to September 2020, for comparison:

### Liverpool



## 6.6 Manchester

The TCC court is part of the Business and Property Courts based at the Manchester Civil Justice Centre.

His Honour Judge Stephen Davies and His Honour Judge Stephen Eyre QC both sat as full-time TCC Judges in the Civil Justice Centre in Manchester.

The other specialist judges in the Manchester Business and Property Courts are authorised to sit in all jurisdictions which permits them to cover for TCC work when necessary, namely HHJ David Hodge QC, HHJ Bird, HHJ Richard Pearce and HHJ Mark Halliwell and District Judge Manasse who sits as the TCC District Judge.

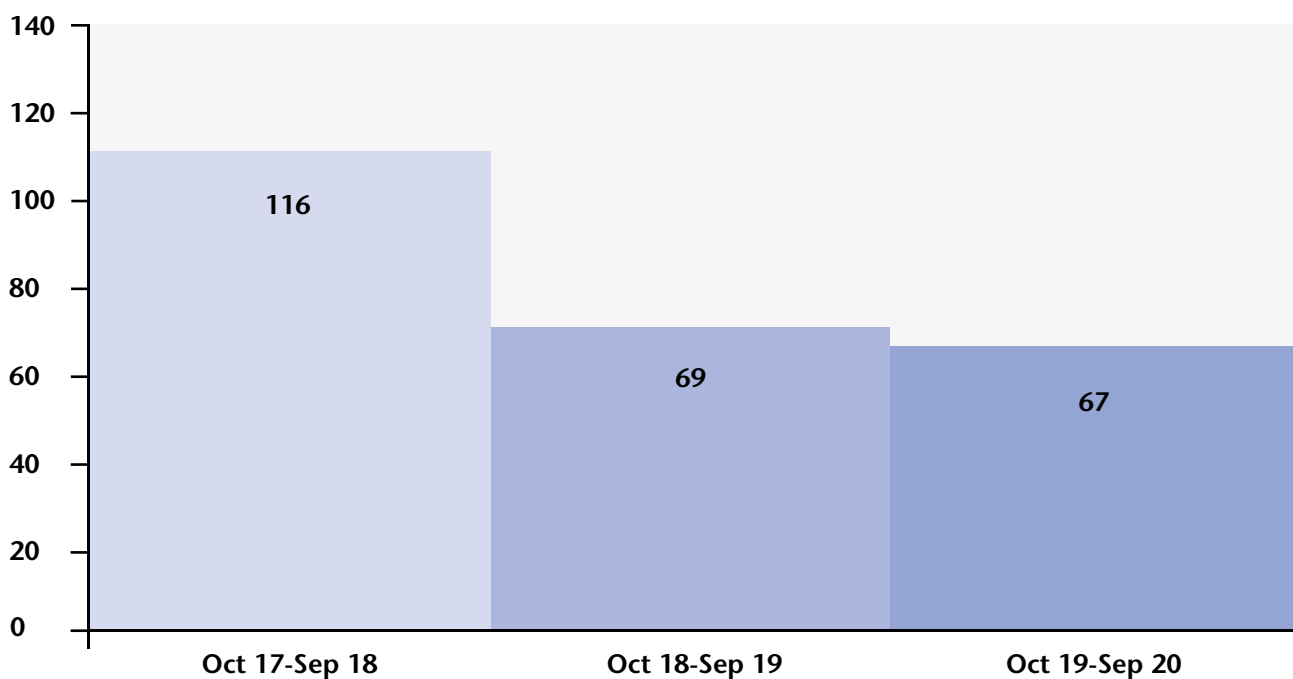
During the period October 2019 to September 2020 there were 67 new TCC claims. This is broken down further as 14 County Court and 53 High Court, both issued and transferred in.

In contrast there were 69 new claims received the previous year, so figures have remained relatively consistent.

Since March 2020, there have been no changes in the court proceedings from the previous year. No TCC hearings were vacated by the courts since March 2020 as a result of Covid-19 restrictions, as all planned hearings were conducted remotely or face to face if needed.

The graph below shows the number of new TCC claims brought to the Manchester Civil Justice Centre from October 2017 to September 2020, for comparison:

### Manchester



## 6.7 Newcastle

The TCC court is part of the Business and Property Courts and is based at the Newcastle County Court/District Registry. Majority of cases are heard at the historic Moot Hall in the centre of Newcastle.

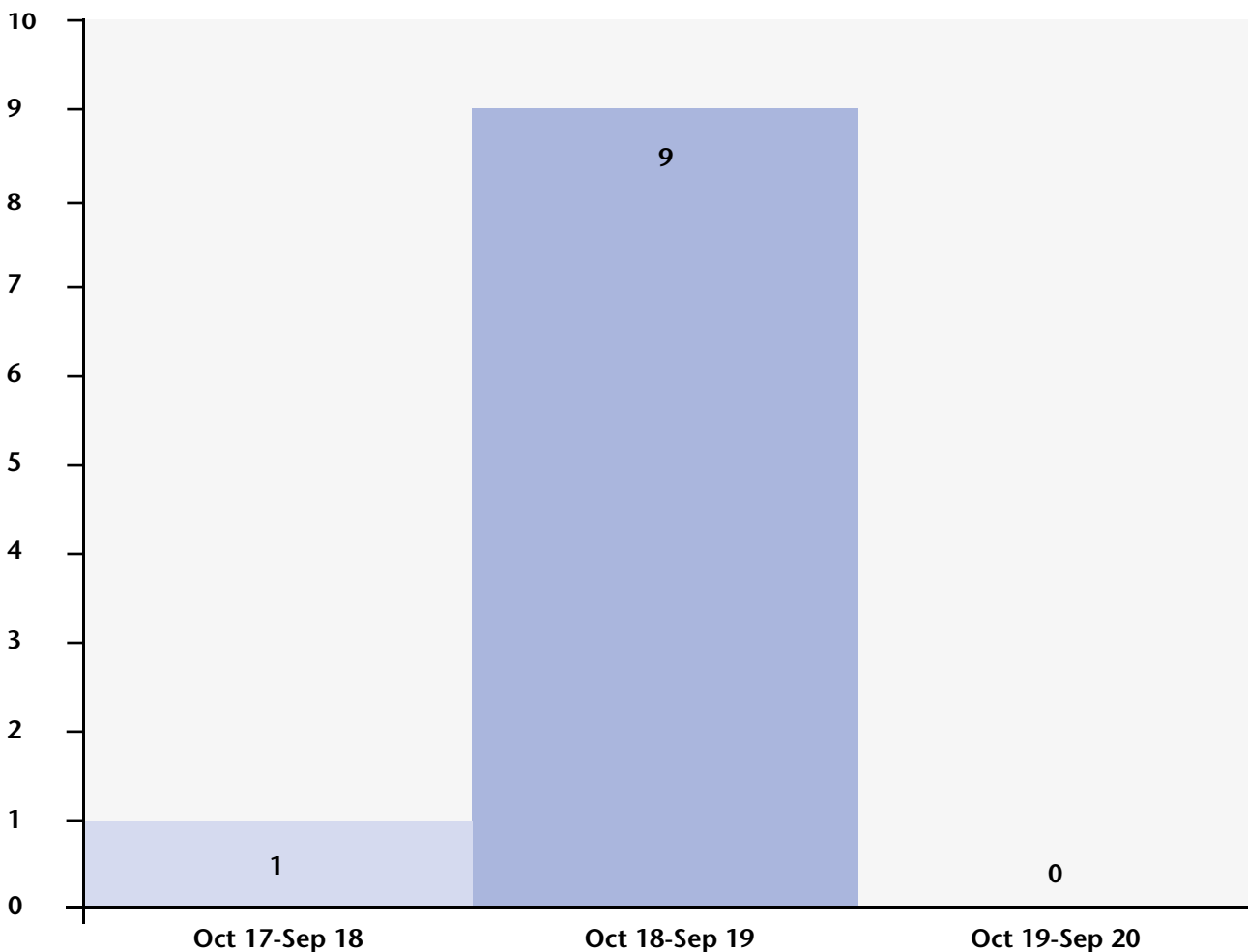
His Honour Judge Kramer was the principal TCC Judge for Newcastle during the period of this report.

During the period October 2019 to September 2020 there were no new TCC claims issued or transferred during the period specified in this report.

In contrast there were 9 claims issued or transferred in the previous year, so there has been a notable decrease.

The graph below shows the number of new TCC claims brought to the Newcastle Civil Justice Centre from October 2017 to September 2020, for comparison:

### Newcastle



## 7. Overall Division of Cases

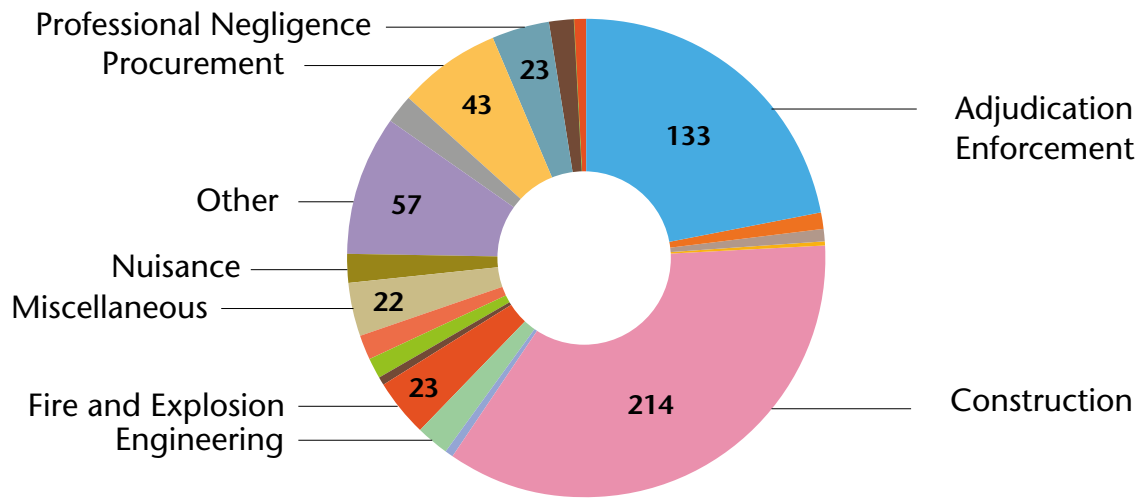
As in previous years we include an analysis of the percentages of each type of work carried out in those TCC courts which provided the relevant information.

It has been produced solely by reference to the claim and not by reference to the subsequent proceedings.

This means that, for instance, some claims for professional fees may have triggered counterclaims for professional negligence which are not shown as such.

There is also a subjective element in the classification, since some cases lie on the borderline between categories or fall into more than one category.

### Overall Division of Cases



- Adjudication Enforcement - 133
- Adjudication- Other - 7
- Arbitration - 5
- Claims for professional fees - 2
- Construction - 214
- Dilapidation - 3
- Engineering - 13
- Fire and Explosion - 23
- Insurance - 5
- IT and Computer - 7
- Landlord and Tenant - 11
- Miscellaneous - 22
- Nuisance (Incl Foods) - 11
- Other - 57
- Pre-Action Injunction/Disclosure - 12
- Procurement - 43
- Professional Negligence - 23
- Technology - 9
- Tree Roots - 1
- Unallocated - 4

## 8. The TCC during the year

### 8.1 Appointments

The Lord Chief Justice's power under s. 68(1)(a) of the Senior Courts Act 1981 to nominate circuit judges, deputy circuit judges or recorders to deal with "official referees' business" in the TCC is delegated to the Judge in Charge, who is required to consult with the Lord Chancellor and the senior judiciary before exercising that authority.

Those approved to sit in the TCC with "TCC Tickets" were, in alphabetical order, Cockerill, Fraser, Jefford, O'Farrell, Pepperall, Stuart-Smith, Waksman JJ. On 8 September 2020 Kerr J was nominated by the PQBD to sit in the TCC.

As mentioned above, the statutory provisions still refer to "official referees" business although under the Civil Procedure Rules the court is referred to the TCC. It is assumed that in due course these statutory provisions will be brought into line with other specialist court jurisdictions.

A full list of TCC Judges including High Court judges, Circuit judges and recorders who have been nominated to manage and try TCC cases is attached as Appendix 1.

### 8.2 Queen's Counsel

In March 2020 the following new Queen's Counsel who regularly practice in the TCC were appointed:

- Alex Hall Taylor
- Krista Lee
- Richard Liddell
- Amanda Savage
- Henry Byam-Cook
- Rob Williams
- David Blundell
- Rajesh Pillai
- Henry Warwick

We are delighted to welcome these specialist TCC practitioners.

### **8.3 The TCC Guide**

A third revision of the second edition of the TCC Guide (which originally came into force in October 2005) was produced in early 2014 and, having received the necessary approval, came into effect from 3 March 2014.

This was prepared following comments from the judges of the TCC, TECBAR, TeCSA and the Society of Construction Law, for whose contributions the court is very grateful. A new edition is currently being prepared.

A working group was set up in 2019 to review and revise the current TCC Guide under the chair of Mrs Justice Jefford. Last years' report indicated hopes for an updated version to be issued in 2020 but the COVID-19 pandemic brought other challenges, resulting in delay to production of the guide. It is hoped an updated version will be issued later this year.

### **8.4 TCC Judges' Conferences**

These continue to be held on a bi-annual basis. The Business and Property Court holds an annual conference for all BPC Judges including those in the TCC. The majority of the TCC judges (particularly those who are fee paid) attend specialist jurisdiction courses run by the Judicial College at Warwick University.

### **8.5 Alternative Dispute Resolution**

Alternative dispute resolution ("ADR") has continued to play a large role in resolving technology and construction disputes during the year. Many cases which are begun in the TCC are resolved by means of ADR, often with the assistance of one of the many highly experienced professional mediators (solicitors, counsel or construction professionals).

TCC judges encourage parties to consider mediation either to settle or to narrow their disputes. Obviously, there are and will continue to be cases where the parties are not able to resolve their disputes without the decision of the court but many cases are resolved effectively through ADR.

The TCC also has available ADR processes of Early Neutral Evaluation and the Court Settlement Process to assist parties to resolve disputes. These are now dealt with more fully in the current TCC Guide.

In addition, in appropriate cases, TCC judges can sit as Arbitrators. Further guidance on this aspect is again contained in the TCC Guide.

## **8.6 TCC User Committees**

TCC user committees are in operation and function at Birmingham, Bristol, Cardiff, Leeds, Liverpool, London, Newcastle and Manchester.

These committees make a valuable contribution to the work of the court. They enable solicitors, barristers, consultants, interest groups and clients to be represented in the development and operation of the TCC.

The TCC is grateful to those who chair and participate as members in the TCC user committees. Their support and assistance is much appreciated and contributes not only to the smooth running of the courts, but to improvements that can be identified.

## **8.7 TCC Liaison Judges**

There are TCC liaison District Judges at Birmingham, Bristol, Cardiff, Leeds, Liverpool and Newcastle.

The function of these judges is to keep other district judges informed about the role and remit of the TCC; to deal with queries from colleagues concerning the TCC or transfer of cases; to deal with any subsidiary matter as directed by a TCC judge and to deal with urgent applications in TCC cases when no TCC judge is available.

We are grateful to them for carrying out this important role during the year.

## **8.8 Retirements**

During the year His Honour Judge Simon Barker and His Honour Judge McCahill QC at Birmingham Civil Justice Centre both retired. Their roles are now occupied by His Honour Judge Rawlings and His Honour Judge Williams.

We wish them both well in their retirements.



## 8.9 Judicial Assistants

In 2019 the Judicial Assistance Scheme was reformed and relaunched as a centrally funded scheme administered across the whole of the Business and Property Courts. Open competitions are now held annually in respect of the post of Judicial Assistants.

The London TCC had the benefit of the following Judicial Assistants up to the end of September 2020:

- Annie Lund; and
- Thomas Wingfield.

The scheme has continued despite lockdowns, requiring much of the working to be remote. The TCC is very grateful to the Judicial Assistants for their valuable contribution to the work of the Court.

**The Hon. Mr Justice Finola O'Farrell DBE**

**Judge in charge of the Technology and Construction Court**

**March 2021**

## **9. APPENDIX 1 – The TCC as at 1 October 2020**

### **9.1 London TCC**

Mrs Justice O’Farrell (Judge in Charge of the TCC)

Mrs Justice Cockerill

Mr Justice Fraser

Mrs Justice Jefford

Mr Justice Kerr

Mr Justice Pepperall

Mr Justice Waksman

### **9.2 Birmingham**

Her Honour Judge Sarah Watson (Principal TCC Judge)

His Honour Judge Rawlings

His Honour Judge Williams

His Honour Judge Worster

### **9.3 Bristol**

His Honour Judge Russen QC (Principal TCC Judge)

His Honour Judge Cotter QC

### **9.4 Cardiff and Mold**

His Honour Judge Keyser QC (Principal TCC Judge)

His Honour Judge Jarman QC

## **9.5 Central London**

His Honour Judge Parfitt (Principal TCC Judge)

His Honour Judge Backhouse

His Honour Judge Johns QC,

His Honour Judge Lethem

His Honour Judge Monty QC

His Honour Judge Saunders

## **9.6 Leeds**

HHJ Siobhan Kelly

HHJ Malcom Davis-White QC

HHJ Jonathan Klein

## **9.7 Liverpool**

His Honour Judge Wood QC (Principal TCC Judge)

## **9.8 Manchester**

His Honour Judge Stephen Davies (Full time TCC Judge)

His Honour Judge Stephen Eyre QC (Full time TCC Judge)

His Honour Judge David Hodge QC

His Honour Judge Richard Pearce

His Honour Judge Mark Halliwell

## **9.9 Newcastle**

His Honour Judge Kramer (Principal TCC Judge)

His Honour Judge Davis White QC (based at Leeds)

His Honour Judge Klein (based at Leeds)

## **9.10 Deputy High Court Judges/ Recorders**

Mr Jonathan Acton Davis QC

Mr Andrew Bartlett QC

Mr Martin Bowdery QC

Mrs Veronique Buehrlen QC

Mr Adam Constable QC

Mr Simon Lofthouse QC

Mr Alexander Nissen QC

Mr Andrew Singer QC

Mr Roger Stewart QC

Mr Roger Ter Haar QC

Mr Adrian Williamson QC

## **9.11 Retired High Court Judges**

His Honour Judge Simon Barker QC

His Honour Judge McCahill QC

## **9.12 TCC Liaison District Judges**

District Judge Baldwin (Liverpool)

District Judge Hart (Central London)

District Judge Hywel James (Cardiff)

District Judge Ingram (Birmingham)

District Judge Manasse

District Judge Musgrave (Birmingham)

## 10. APPENDIX 2 – The Staff of the London TCC as at 1 October 2020

<b>Court Manager</b>	Wilf Lusty
<b>Senior Listings Officer</b>	Michael Tame
<b>Listings Officer</b>	Ian Dawson
<b>Listings Officer</b>	Daniel Hull
<b>Registry Team Leader</b>	Abdul Musa

<b>Clerk to Mrs Justice O’Farrell</b>	Samia Nur
<b>Clerk to Mrs Justice Cockerill</b>	Laura Hope *
<b>Clerk to Mr Justice Fraser</b>	Madeleine Collins
<b>Clerk to Mrs Justice Jefford</b>	Sam Taylor
<b>Clerk to Mr Justice Kerr</b>	Mandy Torrens
<b>Clerk to Mr Justice Pepperall</b>	Olivia Duarte
<b>Clerk to Mr Justice Waksman</b>	Alicia Zahedi-deWolfe

\* Please note the following staff changes as at February 2021

<b>Clerk to Mrs Justice Cockerill</b>	Kaylei Smith ( <i>Maternity Cover</i> )
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