



JUDICIARY OF  
ENGLAND AND WALES

# The Lord Chief Justice's Report 2021

# The Lord Chief Justice's Report 2021

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## Introduction by the Lord Chief Justice

The response to COVID-19 continued to dominate the period covered by this annual report. I pay tribute to the work of the judges, magistrates and all those who support the work of the courts and tribunals for the way in which they rose to the challenges of the pandemic; they continue to support our efforts to return the system to normal and recover backlogs.



The volume of hearings conducted in the courts grew steadily through the second half of 2020 with the imaginative use of space, physical adjustments, the use of temporary accommodation and the continued use of technology to facilitate remote attendance where it is in the interests of justice to do so. The response of the judiciary, Her Majesty's Courts and Tribunal Service (HMCTS), the legal profession and others whose participation is vital has been impressive.

The picture varies across jurisdictions. By any measure, the outstanding caseload in the Crown Court rose by about 50% as a result of COVID-19. The overriding task for all of us is to eat away at the backlog. The picture varies across the country with London and the South East presenting the greatest difficulty. The picture in the magistrates' courts is encouraging with some areas in the country having recovered, or almost recovered, their backlogs and the progress is steady. The senior civil courts and the Court of Appeal have continued to dispose of business at much the same rate as pre-COVID-19. Volumes of work entering the county court reduced with the result that additional judicial resources were deployed to assist in dealing with the growing outstanding caseload in the family court.

In all jurisdictions work continues to streamline procedure, encourage early resolution of cases and to address impediments to the swift disposal of cases. The remote attendance of parties, witnesses and lawyers at hearings will continue when it is in the interests of justice that they do so. Experience has shown that remote attendance is not necessarily more efficient or quicker. That is especially true when dealing with long lists but, even with some procedural hearings, the lost opportunity for discussion between parties and lawyers leads to fewer cases or issues being resolved. It can result in a casualness in some not appropriate for court proceedings. But it is an important part of the new ways of working.

Capacity in all jurisdictions depends not only on court space, but also the availability of judges, both salaried and fee paid, and key players in each jurisdiction to service increasing volumes of work. The judiciary continues to work with the Judicial Appointments Commission, the Ministry of Justice and the professions to encourage applications at all levels from suitable candidates who can be appointed to office, applying the statutory criterion of merit.

We support and encourage candidates from groups underrepresented in the judiciary with the aim of increasing the diversity of the judiciary at all levels by attracting additional well qualified applicants for judicial appointment from diverse backgrounds and by supporting their inclusion, retention and progress in the judiciary.

The 2020 Judicial Attitudes Survey showed an overall improvement in morale as compared with its predecessor but there remain difficulties in recruiting salaried judges at all levels. The resolution of specific pension difficulties by the Public Service Pensions and Judicial Offices Bill introduced into Parliament in July 2021, the prospect of which has probably helped with recruitment since the Government committed in 2019 to its introduction, remains vital. That said, the poor physical conditions in which many judges work coupled with the substantial real reduction in remuneration since 2008 means that judicial office requires an increasing commitment to public service.

The reform programme has continued to make progress. The latest iteration of the HMCTS business case was accepted by the Treasury and the necessary financial support has continued. That support must be maintained to see the project to its completion. Modernisation and recovery are not distinct but march arm in arm. The piloting of the three substantial remaining projects (the Common Platform in crime, the scheduling and listing tool and the video hearing service) has continued. HMCTS is working to solve the problems that the pilots have exposed. Digitisation of process also continues.

Adequate resourcing of the courts and tribunals is vital for the future. The period of COVID-19 led to some welcome and necessary injections of money into the system. Future funding should take into account the vital part that the courts play in sustaining the rule of law. The courts are not a service like any other. They do not exist simply to provide a service to those who use them. They are one of the foundations of the rule of law and one of the building blocks on which civil society and economic activity rests.

There has been too little focus on the value that the rule of law, a properly functioning justice system and the courts contribute to the general prosperity of the nation. The direct value of the legal sector, very substantial though it is, is but a small part of the value that a properly functioning administration of justice contributes to our national prosperity. Courts that do their work quickly and efficiently contribute to the prosperity of the nation. The very existence of a properly funded, efficient and effective court system encourages the resolution of disputes because all know that the courts are there to exercise the coercive judicial power of the state.

Again I pay tribute to the work of the judges, magistrates and all those who support the work of the courts and tribunals. Without them we could not have achieved what was done in keeping so much going in the face of adversity.

# 1. Leading the judiciary

Leadership judges play a critical role in ensuring the effectiveness of the judiciary as well as in supporting judges on pastoral matters and promoting career development and morale. As the responsibilities of leadership judges increase so too does the requirement to give them appropriate support, information and training. The Lord Chief Justice welcomes the additional HR support now provided for leadership judges and increased HR support to judicial office holders on a regional basis together with enhanced HR guidance, including on diversity and inclusion.

## Welfare

The Lord Chief Justice regards the welfare of the judiciary as vital to the delivery of justice. Leadership judges have pastoral responsibility for judges and can seek advice from appointed judges with portfolio responsibility for welfare. These welfare judges also provide an alternative route for judicial office holders to raise any welfare concerns.

In February 2021, the first Judicial Health and Wellbeing Strategy was launched. The strategy is a four-year plan consisting of six objectives which support the development of the wellbeing agenda across the judiciary. The Judicial Health and Wellbeing Strategy emphasises the wellbeing benefits of inclusivity and the important role that senior judicial office holders, leadership judges and Bench Chairs can play in promoting wellbeing and healthy working practices that encourage inclusivity, increase engagement and help to build a positive workplace culture.

A Judicial Whistleblowing Policy was published in June 2021 to provide a clear route for judicial office holders to bring attention to issues of wrongdoing and receive protection when doing so. The policy is supported by Nominated Judicial Office Holders, who were appointed following an open expressions of interest exercise, to provide confidential and impartial information and support to anyone raising a concern or complaint under the whistleblowing or grievance policies and procedures.



The COVID-19 pandemic brought many unique challenges and pressures which naturally has led to a focus on mental wellbeing. Judicial HR has continued to support leadership judges in discharging their pastoral responsibilities. Mental wellbeing support includes access to a confidential judicial helpline, counselling support including bereavement support, a judicial professional support service, trauma support, resilience training, access to topical webinars through LawCare, and internal online learning and wellbeing practice including mindfulness.

At the beginning of 2021, the judiciary agreed to modifications to the occupational health process which has resulted in more timely occupational health reports and medical advice on workplace adjustments that can assist judicial office holders to return to sitting. In May 2021, guidance was produced to increase support for judicial office holders with disabilities including the introduction of a workplace adjustment passport.

It is an unfortunate fact that in discharging their judicial responsibilities, judicial office holders have, on occasion, been subjected to harassment by members of the public on social media. Internal guidance was published in June 2021 outlining the support available to all members of the judiciary. The guidance outlines practical options and information on access to professional welfare support when such situations arise.

In May 2021 the first internal judicial wellbeing survey was conducted. The results will form the basis of a wellbeing action plan for the coming year.

### **Diversity and Inclusion**

The Judicial Diversity and Inclusion Strategy was published on 5 November 2020. The strategy aims to increase the personal and professional diversity of the judiciary at all levels over the next five years by increasing the number of well qualified applicants for judicial appointment from diverse backgrounds and by supporting their inclusion, retention and progress in the judiciary. To support implementation of the strategy, Diversity and Community Relations Judges (DCRJ) will now also offer diversity support within their respective courts and tribunals with direct support being offered to leadership judges. Diversity and Community Relations Magistrates have been appointed in a role that will largely mirror that of the DCRJ, providing support to leadership magistrates.

The judiciary has continued to work with the professions, the Judicial Appointments Commission and the Ministry of Justice as part of the Judicial Diversity Forum (JDF). In July 2021, statistics were published on diversity within the existing judiciary, appointments process and legal professions. Judges have continued to work with JDF members to deliver the Pre-Application Judicial Education programme.

Judges have worked with the Judicial Appointment Commission to assist with work being undertaken to support improved outcomes for underrepresented groups aiming to apply for senior salaried roles as well as for fee paid appointments.

The judiciary has continued to hold judicial application seminars, supported by the Judicial Appointments Commission, for those considering applying to join the judiciary or for judges considering promotion to another judicial role. By July 2021, nine online seminars were held with over 1600 lawyers and judges registering attendance.

The Judicial Mentoring scheme, paused in light of pandemic restrictions, re-opened in December 2020, receiving 36 applications by the end of July 2021. A revised version of the Judicial Shadowing Scheme opened in December 2020, with 185 applications received to the end of July 2021.

### **Career conversations and appraisal**

The Lord Chief Justice regards Career Discussions as being of great importance. They offer the opportunity for salaried judges to discuss their aspirations and other work issues with their leadership judges; and the results of the Judicial Attitude Survey published in February 2021 show the extent to which such discussions are valued by judges. The Lord Chief Justice notes the development of various mentoring arrangements which offer discussions with more experienced judges, in addition to those that take place with leadership judges. New pilot schemes were started including a pilot for 'peer mentoring' for Circuit Judges in the South Eastern Circuit and the 'enhanced mentoring' pilot for Section 9(4) Deputy High Court Judges in the Chancery Division. These are in addition to existing mentoring schemes currently in place in the Family Division and in the Queen's Bench Division. The Recorder Appraisal scheme offers an opportunity for Recorders to receive feedback from Circuit Judges which can help them in any future applications for salaried roles.

## Training

The Lord Chief Justice has statutory responsibility for judicial training exercised through the Judicial College. The Judicial College delivers training for approximately 21,400 judicial office holders (including around 13,100 magistrates) and approximately 700 coroners' officers. Most are in England and Wales, but some are in reserved tribunals in Scotland and Northern Ireland. Training is provided nationally and regionally.

Training was delivered digitally with the exception of one face-to-face pilot in July as part of preparations for the planned reintroduction of in-person training from September 2021. Up to the end of March 2021 the training programme focussed on induction training, supporting recovery, digital ways of working and reform, and preparations for the end of the transition period following the UK's departure from the EU. A full training programme was reinstated from 1 April with the reintroduction of continuation training for all judicial office holders.

During the period covered by the report, 300 seminars were delivered for approximately 10,000 delegates; this includes 74 induction seminars attended by approximately 1,900 delegates.

The College has a Learning Management System (LMS), a digital platform which enables judicial office holders to book courses as well as work through a range of online materials and e-learning modules. The LMS is accessible to judicial office holders at all times. The College has continued to enhance the design and functionality of the LMS and to seek feedback to understand how it can better meet future needs.

Significant focus has been placed on the development of online training resources to support judicial office holders to develop their own digital skills and confidence. A new IT induction training resource was created to inform judicial office holders of the digital tools, training and support available to them. Specific training and guidance were provided on the use of video technology in remote hearings and best practice in running such hearings.

A revised version of the Equal Treatment Bench Book was published on 24 February 2021 following a systematic review of the entire Book, providing additional guidance on a wide variety of topics and updated content, including sections which relate specifically to the pandemic and a comprehensive review of best practice for digital hearings.

The College has further developed its leadership training programme with a focus on diversity and inclusivity.

The College, on behalf of the Lord Chief Justice and in consultation with the President of the Family Division, commenced work to update all family training in light of the four April 2021 Court of Appeal judgments in domestic abuse cases, the recent report of the Ministry of Justice panel (which assessed the risk of harm to children and parents in private law family cases), and the new Domestic Abuse Act.

### **The Judicial Library and Information Service**

The Judicial Library and Information Service (jLIS) continued to provide its services to the judiciary in line with the limitations imposed by the COVID-19 restrictions. Changes which were introduced at the end of 2020 meant that the necessary arrangements were in place to support judges in the courts and tribunals effectively. This included the suspension and redirection of publications to where they were needed most, with the co-operation of key suppliers, and the provision of publications for the Nightingale courts. Over 31,000 publications were supplied to the courts and tribunals last year.

As judges' access to hard copy publications was limited, use of online resources increased, as did the demand for training in the use of these resources; as face-to-face training was no longer possible all training was offered remotely. A high-profile campaign to encourage judges to attend remotely was successful. This enabled jLIS to significantly increase the number of judges who were trained and feedback was very positive.

The updated Protocol governing the provision of publications to courts and tribunals was implemented in April 2021. This offered judges much more flexibility to choose which publications they require and whether to have them in print, e-book or online.

The Royal Courts of Justice library re-opened in September 2021 and since then the full range of services are now available to all judges in England and Wales. Once restrictions were lifted, the library resumed its support for the International Law Book Facility (ILBF) charity by sending unwanted legal books to not-for-profit organisations around the world.

Courts judgments are currently published by BAILII under a contract with Her Majesty's Courts and Tribunals Service (HMCTS). It was decided that the Crown should take over responsibility for the publication of all judgments. The decision was announced by the Ministry of Justice in June 2021.

## 2. Modernisation

In parallel to a complex programme of recovery, the judiciary has continued to work with HMCTS in helping to shape the development and delivery of its Reform Programme to support the implementation of modernisation across Courts and Tribunals.

HMCTS has continued to rely on the invaluable support provided by the judiciary and magistracy through Judicial Engagement Groups (JEG) and Judicial Working Groups, which provide input into the development of jurisdictional service models and review the design of proposed products and plans for delivery, the latter becoming more prominent over this past year.

There has been continued progress in Civil and Family, with the rollout of Judge Draws Direction Orders (JDDO) and availability of a digital file to judges in the County Court, and in Family by mandating the use of the Family Public Law service to Local Authorities to improve the digital take up of what is now an end-to-end service. The key design principles established during the 2018 Judicial Ways of Working exercise continue to remain at the centre of reform.

The Scheduling and Listing project has seen pilots of the new List Assist tool in three locations and is due to begin national rollout in October 2021. The COVID-19 pandemic necessitated a speedy move to remote attendance at hearings using a variety of software platforms. HMCTS has been preparing to implement its strategic solution to remote attendance at court: the Video Hearing Service, which has been piloted at the Birmingham Civil Justice Centre.

Judicial contribution has been increasingly important as the Reform Programme moves into the phase of widespread implementation across the courts and tribunals. The Lord Chief Justice remains grateful to judicial office holders who have continued to commit their time and effort to the programme, and to HMCTS for its continued efforts to implement this ambitious programme of modernisation, with particular recognition of the fact that their contribution comes at the same time as dealing with recovery from the effects of the pandemic. The introduction of technological change rarely comes without hiccups. HMCTS continues to work to resolve problems that have become apparent as new systems are piloted or rolled out.

Reform communication events moved online and continued from the latter half of 2020 with demonstrations, updates and interactive Q&As being held in the Family, Tribunal and Crime jurisdictions. As with the live events, they were hosted and presented by Judicial Engagement Group members and HMCTS project leads and were well attended throughout. Recordings of the events also proved popular, with an average of 400 views for each video. Plans are now underway to revive the face-to-face 'digital demonstrations' and events in major court centres across the country.

## 3. External engagement

### **Working with Government and Parliament**

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 Lord Chief Justice has continued to meet members of the House of Commons Justice Select Committee and the House of Lords Constitution Committee and the Parliamentary Clerks, supporting them informally and regularly. The strong working relationship between officials in the Judicial Office and the Parliamentary Clerks supports the judiciary's readiness to assist Parliament within constitutional boundaries.

The Lord Chief Justice is regularly invited to give oral and written evidence to parliamentary Committees as part of his statutory duty to represent the views of the judiciary of England and Wales to Parliament and Government. He appeared virtually before the House of Lords Constitution Committee in May 2021 and in person before the House of Commons Justice Select Committee in November 2020. His evidence covered a wide range of topics including the judiciary's response to the pandemic, open justice, the use of digital technology in the courts and the use of remote hearings and attendance. He also gave evidence on broader issues such as the modernisation programme and access to justice.

Members of Parliament have made virtual visits to various courts and tribunals in the past year to see their work first-hand.

### **The legal profession**

The judiciary has an inherent interest in the legal profession. The adversarial system works only when advocates and litigators embody the highest standards of conduct and ethics and owe an overriding duty to the court. The Lord Chief Justice and Judicial Office have regular and constructive meetings with the representative and regulatory bodies.



## Communications

The Judicial Office (JO) has been working on a programme of work to appeal to diverse audiences through a range of platforms. The JO continues to utilise social media to disseminate information and champion the diversity that exists within the judiciary through cases studies, interviews and digital content. The JO Twitter feed has over 61,800 followers. The Instagram page is 18 months old and has more than 2,000 followers, reaching a predominantly young audience aged 30 and below. The corresponding Facebook page now has over 2,000 followers and reaches an older audience.

A revised version of the Massive Online Open Course 'The Modern Judiciary: Who they are, what they do and why it matters' ended on 8 November 2020 and was completed by over 10,000 people. It was designed in partnership with King's College London and FutureLearn to explain the workings and purpose of the modern judiciary to young people across the country with a focus on magistrates and diversity.

The JO hosted Judicial Question Time events for students from different schools to question a panel of judges, including Lady Justice Simler, the Chair of the Judicial Diversity Committee. During the pandemic the JO arranged three virtual sessions for a panel of judges and magistrates to be quizzed by students.

The JO continues to work closely with the Ministry of Justice and HMCTS to continue to develop materials and messaging to increase awareness and understanding of the magistracy amongst the general public. To encourage applications to the magistracy, the Judicial Office launched an English and Welsh landing recruitment page which has been visited over 52,200 times.

Increasing numbers of judgments and sentencing remarks are published and circulated by the Judicial Press Office to encourage accurate reporting and fuller understanding of the breadth and complexity of judges' work. Live streaming of Court of Appeal cases, already routine in civil appeals, has been extended to include some family appeals. The judicial website was updated to make it more accessible in line with the Public Sector Bodies (Websites and Mobile Applications) (No. 2) Accessibility Regulations 2018. The site saw an increase of over 660,000 pages views between 1 August 2020 and 31 July 2021, building on the increase of over 2.9 million additional page views over the previous year. The Lord Chief Justice has commissioned a review of the website to improve its content, navigability and presentation.

The Lord Chief Justice held his annual press conference remotely in December 2020, inviting and answering questions on any subject from journalists from national and specialist media.

Over the last year a number of moments were virtually commemorated including the first time an all female Court of Appeal Criminal Division sat in Wales.

### **Schools' engagement programme**

In the 12 months prior to April 2021, the 122 Diversity and Community Relations Judges reached over 4,500 school children, college and University students which played an important role in enhancing understanding of the justice system and encouraging future lawyers and judges. The outreach included a programme of work experience for young people from a local exclusion unit in Bedfordshire and a visit by the Lord Chief Justice to Stoke Damerel School in Plymouth in June 2021.

Three new videos exploring 'A day in the Life of' judicial office holders were published (both on social media channels and on the Judiciary YouTube channel). The videos, aimed to assist understanding of the judiciary and the rule of law, have been viewed over 15,000 times.

### **Judicial Data Protection Panel**

Progress has continued to raise awareness within the judiciary of data protection requirements and to embed compliance. This work continues to be overseen by the Judicial Data Protection Panel.

The Panel reviews all judicial data incidents to identify themes and inform advice and guidance. There have been very few data breaches over the past year (notwithstanding continued relatively high rates of judicial home-working in the pandemic) and none that have been assessed as serious. It has also considered the data protection and information security guidance provided to judicial assistants to ensure it is clear they must not access case material without authorisation. This is required as judicial assistants are provided with access to systems being rolled out as part of the HMCTS reform programme and so easier access to large numbers of cases filed electronically.

The Panel considers complaints from individuals about how their personal data has been processed by a court, tribunal or individual when acting in a judicial capacity. Revised guidance for complainants was published in June 2021.

## 4. Criminal Justice

### **Court of Appeal Criminal Division**

Case receipts remained relatively stable in the last twelve months, with conviction applications rising in the latter half of the year as expected. There was a slight increase in references made under the Unduly Lenient Sentence scheme and interlocutory applications such as prosecution appeals.

Applications submitted by Litigants in Person continued to increase and formed a significant proportion of receipts. Use of the easy read form introduced last year provided some structure to assist in formulating grounds of appeal and procedural advice was given by a lawyer where appropriate.

The use of digital bundles became prevalent in the Court of Appeal Criminal Division (CACD) and the permission applications for consideration by a single judge and the case papers for the judges sitting in the CACD were, in almost every case, in electronic format. This has been a welcome increase in efficiency.

Adaptations to the CACD court rooms facilitated more in-person hearings and continued use of the Cloud Video Platform has enabled flexibility so that more cases can be listed. The flexible approach adopted has enabled the Court to continue sitting so that the numbers of cases heard are back to pre-pandemic levels.

The Victims' Information Leaflet was updated in easy read format and made available online, ensuring that victims have access to up-to-date and accurate information about appeals against both conviction and sentence. Victims may, and frequently do, now attend appeal hearings remotely, including by telephone, and feedback has confirmed that this has been very welcome.

## Crown Courts

Non-Trial work in the Crown Court was maintained throughout the pandemic. After a short pause in the first lockdown, Jury Trials resumed in May 2020 with the help of the judicially-led Crown Court Working Group. Imaginative reconfiguration of courtrooms, installation of Perspex screens and use of every available space in court buildings meant that the number of usable courtrooms for jury trials rapidly increased from 72 in July 2020 to over 290 courtrooms by December 2020. Creative listing and staggered listing times to reduce footfall and careful triaging of cases and case-management helped maximise the throughput of work and led to a steady increase in the number of jury trials heard, month-on-month. Multi-handed cases posed particular difficulties due to social distancing restrictions. As a result of work by HMCTS in courtrooms and custody suites, the number of courtrooms which could safely hold three or more defendants increased from 83 in November 2020 to 110 courtrooms by the end of March 2021.

Judges developed and regularly reviewed innovative ways of working in the Crown Court, robustly triaged and case-managed cases, developed a range of listing strategies, including listing non-custody cases into Nightingale Courts, splitting multi-hander trials, moving cases, and making best use of the technology available. Judges also regularly reviewed and prioritised cases involving domestic abuse, vulnerable witnesses and serious sex offences; and increased the application of special measures and assisted in the rollout of the pilot of Section 28 of the Youth Justice and Criminal Evidence Act 1999 to enable pre-recorded cross-examination of vulnerable and intimidated witnesses in the Crown Courts. Judges ensured that, where appropriate and in the interests of justice, technology was used to enable hearings to go ahead with some or all parties, advocates and witnesses appearing remotely. The rapid rollout of Cloud Video Platform by HMCTS supported this.

The pandemic has caused a significant increase in the outstanding caseload waiting to be heard. The outstanding caseload was growing before COVID-19 as a result of restrictions on sitting days imposed by government. By any measure (the data are unsatisfactory) the outstanding caseload has grown by about 50 percent since the pandemic began. The removal of all sitting day restrictions for 2020/2021 was not merely welcome therefore, but necessary. This enabled judges to list to maximum capacity (subject to social distancing guidelines). In order to make any inroads into the backlog we must continue to sit to full capacity in the Crown Court for the foreseeable future and increase that capacity wherever it is possible to do so. Full capacity means using all available physical space, every judicial resource and ensuring that there are sufficient HMCTS court staff on site and legal professionals available to prosecute and defend cases, with no cap on Crown Court sitting days. Timeliness is an important measure. Ensuring that cases are dealt with in a timely manner is essential to retaining public confidence in our system of justice, and can only be achieved with sufficient sitting days, court rooms, judges, HMCTS staff and legal practitioners.

The performance of the Crown Court during the pandemic was remarkable. It reflects the sustained efforts of the judiciary, HMCTS, the Ministry of Justice, the legal profession, Police, CPS, Prison and Probation Service working together in the public interest.

## **Magistrates**

The magistrates' courts have made significant progress during the pandemic. In the 12 months from June 2020 to June 2021, the number of outstanding cases in the magistrates' courts fell by 14% from 422,182 to 364,122. The total number of listed trials in magistrates' courts have continued to increase following historical lows in June 2020. This has been due to the combined efforts of District Judges, Magistrates and local HMCTS staff, together with support from other agencies.

The successful recovery process has been greatly assisted by judicially-led local task forces at which all key criminal justice system agencies were represented and who have reported to the National Task Force. Those task forces have been delivering on a five-point recovery plan developed by the National Task Force in conjunction with HMCTS.

This year has seen the recruitment of around 30 judges to the District Bench. A national steering group has been working on plans to increase recruitment into the magistracy by improving the quality and speed of the application process, developing a revised candidate pack and launching a new internet web page. An important aim is to increase the age range and diversity of the magistracy. At the request of the Deputy Senior Presiding Judge, the Magistrates Leadership Executive (MLE) set up a small task group and developed a 10-point plan to deliver the Judicial Diversity and Inclusion Strategy's ambitions.

### **The Criminal Procedure Rule Committee**

The Committee had a wide programme of work over the last year. This included amendments to the Criminal Procedure Rules 2020 to define the functions and duties of intermediaries; to facilitate the electronic handling of documents in the Court of Appeal Criminal Division; to clarify provision for access to information in court records; to provide for sentencing indications in magistrates' courts; to clarify requirements to alert the court to disputes about the admissibility of evidence; to improve provision for dealing with applications to vary restraining orders so as to minimise confrontation between parties; and to implement recommendations in the Law Commission report on search warrants.

### **Sentencing Council**

The Council's primary duty is to develop guidelines that promote a clear, fair and consistent approach to sentencing while maintaining the independence of the judiciary. Over the past year it has continued to fulfil this duty by publishing or bringing into effect new definitive guidelines covering: sentencing offenders with mental disorders, developmental disorders and neurological impairments; firearms offences; drug offences; and assault offences and attempted murder; as well as making amendments to the magistrates' courts' sentencing guidelines.

This year the Council carried out a major consultation to mark its 10th anniversary. 'What next for the Sentencing Council?', which called on all those with an interest in criminal justice and sentencing to contribute to a discussion on what the Council's future objectives and priorities should be.

On 1 December 2020, the Council updated all its existing sentencing guidelines and related explanatory materials to reflect the coming into force of the Sentencing Code. The Council also consulted during the year on a number of proposed or revised guidelines. These included: unauthorised use of a trademark; modern slavery offences; sexual offences; burglary offences; and firearms importation offences.

## **The Service Courts**

The Service Courts include the Court Martial, the Summary Appeal Court (for hearing appeals from summary decisions made by Commanding Officers) and the Service Civilian Court (a specialist court to hear cases overseas involving civilians subject to Service discipline). During most of 2020, the social distancing requirements meant that only one court could be operated at each of the Court Martial hearing centres at Bulford and Catterick. From 14 September 2020, it was possible to resume operating two live courts at each hearing centre. Extensive use was made of remote hearings especially for pre-trial proceedings and witness evidence.

In the calendar years 2019 and 2020, 500 and 372 Service personnel, respectively, were tried in the Court Martial. Between January and the end of July 2021, 212 Service personnel were tried in the Court Martial. Plans, made possible by the welcome assistance of the Army, have been put in place for an extra 'Nightingale Court' to operate later in 2021 to help reduce further the backlog of Court Martial cases.

Since September 2020 the Service Justice System (SJS) moved to using electronic files almost without exception. This is a major change for the SJS which was an entirely paper-based system until the early months of the pandemic.

The pandemic has provided an impetus for the SJS to modernise and embrace greater use of IT. Inspired by this, and by the recommendations of the Lyons Review, the Judge Advocate General has begun working with the Service Police, the Military Court Service and the Service Prosecuting Authority on improving the collation and presentation of data in the SJS in order to improve the management information available.



## 5. Civil Justice

### **Court of Appeal Civil Division**

The Court remains committed to improving its transparency by extending the facility to livestream cases, with enabling technology being installed in additional courtrooms. It is intended to make it standard practice, subject to judicial discretion, for all cases to be livestreamed by the end of 2021.

The average time between permission to appeal being granted and judgement remains under 40 weeks.

The Court continues to seek efficiencies to improve both its timeliness and the service it provides litigants. Much work has been done to prepare for the introduction of CE-file (the digital filing system) in January 2022.

### **High Court Civil**

General Queen's Bench civil work continued to attract a large and varied number of claims in tort and contract as well as injunctions, appeals and committal hearings. The number of receipts remained at pre-pandemic levels and steady during the year, with listing dates for trials offered within the targets set out in the Queen's Bench Guide.

In the Administrative Court, the number of claims and listing times remained consistent with pre-pandemic levels. The Court was able to move swiftly to remote hearings, in part through the ability to upload documents for the court electronically together with comprehensive guidance on the electronic lodging of applications for urgent consideration, claims and appeals and the introduction of telephone payment of fees by debit and credit card. As a result, the Court was able to handle the many urgent claims arising from legislation put in place to address the consequences of the pandemic, whilst continuing to deal with a large proportion of its ordinary business. Since June 2020 there has been a significant increase in live hearings. An amendment to Practice Direction 54 on Judicial Review in the Civil Procedure Rules came into force on 31 May 2021.

The Media and Communications (MAC) list dealt with a large volume of cases, including a number which received a high level of media coverage. Over the course of the year, an increasing volume of work in the MAC list was handled in person or using hybrid hearings.

The Planning Court continued to handle planning and environmental challenges efficiently against the target timescales set out in Practice Direction 54D. During this year, the court dealt with a wide range of legal challenges to planning consents and development plans, cases related to infrastructure projects of national importance, the provision of housing and commercial development, the effects of climate change, issues related to pollution, environmental conservation, habitats, heritage assets, safety, and risk assessment.

The work of the Business and Property Courts (B&PCs) continued to underpin the position of English law as the global business law of choice with decisions having a wide impact in financial, business, commodities, insurance, shipping and other markets.

Attention turned to building additional ways of reducing the cost and increasing the speed of specialist civil litigation through the adoption of some of the new ways of working developed at speed during the pandemic, including through the use of remote hearings for those shorter, often preparatory and collaborative hearings that lend themselves to that approach. These initiatives have helped to promote England and Wales as a centre for international business and commercial litigation, as well as speeding and improving domestic business disputes.

The Intellectual Property (IP) list continued to deal with a large number of cases in the Patents Court, general IP list and Intellectual Property Enterprise Court (IPEC).

The Insolvency and Companies list continued to hear decisions relating to the restructuring of companies, an area that was subject to some change under the Corporate Governance and Insolvency Act 2020. Temporary changes were also put in place to the way into the way insolvency hearings were managed in light of temporary provisions to this area of work under the Coronavirus Act 2020.

Work has continued to identify ways to increase the deployment of judges at all levels across the seven Business and Property Court centres outside London, further enabling local businesses to have their disputes resolved in a local court by a specialist judge. One example was the extension of the ability to hear multi-track IPEC cases in those seven major cities.

The B&PC's pilot on disclosure was extended to the end of December 2022 and was the subject of further refinements following feedback from legal professionals and their professional associations. These included the creation of a separate regime for less complex claims, a simplified version of the Disclosure Review Document and some modifications designed to simplify the process for agreeing lists of issues for disclosure.

The Commercial Court is recognised as one of the world's leading centres for international business dispute resolution and has attracted many significant and high value claims. Despite the restrictions of the pandemic, the Court continued to promote its 125th anniversary to increase understanding of the role of the Court and its international business profile, including through a series of online seminars.

The Financial List saw a substantial increase in applications, with 53 issued in 2020. The first Users' Group meeting was held for clients – generally financial institutions – and their legal advisers during the year and will continue to be held annually.

Business in the Technology and Construction Court (TCC) has continued to grow with a 3% increase in new cases in 2020, mainly driven by claims concerning the adequacy of cladding and fire protection measures in high-rise buildings, together with challenges to public procurement contracts. Despite the increase in workload and the restrictions imposed by the pandemic, no delays have occurred to the listing of hearings.

## County Court

An efficient civil court system remains an essential part of the economic infrastructure of England and Wales. The ability of parties to have their claims resolved quickly and at proportionate cost is a direct economic benefit for consumers and small businesses alike. The ability to resolve disputes by every method available is a vital component of our society's recovery from the pandemic.

The number of civil claims being made in the County Court remains below pre-pandemic levels. This reduction in demand, combined with a number of judicial initiatives, including the use of remote video and telephone hearings, has meant that civil workloads and backlogs have not built up during the pandemic anywhere in England and Wales. This is so despite a reduction in available judicial time and other pandemic related challenges, such as reduced availability of court staff. Despite the best efforts of the judiciary and the reduction in new claims, the time taken for final resolution in most County Court cases has increased over the last year.

The senior judiciary has played a formative role in the Civil Management Information Working Group, established with HMCTS in December 2020, to identify how sources of data relevant for the civil jurisdiction can be properly used and ensure that the future requirements for civil data are being taken forward. Digitisation, innovation and efficiency continue to be the top priority for civil justice in the County Courts.

## 6. Family Justice

The President's Transparency Review was completed including several oral evidence sessions. The Presidents Working Group on Experts in the Family courts reported in November 2020 and made 22 recommendations. Implementation will be delivered by a Family Justice Committee sub-committee.

### Public Law

18,052 cases were started in 2020, a 1.8% reduction from 2019. In Quarter 1 of 2021, 4,088 cases were started, a 7.4% reduction from Quarter 1 of 2020. Average timeliness in Quarter 1 of 2021 was 38.3 weeks, an increase from 31.7 weeks from the same quarter in 2020. 22% of cases were completed within 26 weeks in Quarter 1 of 2021, a reduction from 36% in the same Quarter in 2020.

The final report of the Public Law Working Group was published and launched in March 2021. The report provides recommendations on improving practice to help reduce the number of applications and hearings. Training and implementation of the recommendations and best practice guidance continues.

### Private Law

55,669 private law cases were started in 2020, a 1.3% increase from 2019. Quarter 1 of 2021 saw 14,396 cases started, a 5% increase on the same quarter in 2020. Average timeliness has increased from 23.1 weeks in Q1 2020 to 32.6 weeks in Quarter 1 of 2021. Domestic violence injunction applications rose by 22% (2019 to 2020), with 29,856 applications being issued in 2020.

The judiciary co-chaired Private Law Advisory and Pilots Group made reform proposals to tackle backlogs and improve the system. These included more effective triaging of disputes, as well as the better management of domestic abuse cases. Practice Directions were implemented which provided greater flexibility of case management and wider powers to legal advisors. Pilots were designed to test revised procedures for the more efficient progression of private law cases through the courts. The mediation voucher scheme was extended, and a new 'Co-ordinated courts' joint data pack was distributed to Designated Family Judges to assist with the identification of capacity issues.

### **Financial Remedies Court**

Financial Remedies Court (FRC) work, now undertaken by specialist ticketed judges, was mostly conducted remotely. The ongoing project to fully digitise FRC work continued, digitisation of consent orders has improved efficiency in the system and recent transparency reforms regarding costs, as well as enforcing the duty to negotiate, have resulted in a more disciplined, efficient and fair approach to financial remedy litigation.

Judges of the FRCs encouraged parties to engage in private Family Dispute Resolution as statistics show that these have a high rate of settlement.

This movement of work has increased the resources available to the FRC judges to determine contested hearings.

### **Court of Protection**

The Court of Protection (CoP) embraced the use of new technology. COVID-19 was a factor in many cases e.g. access to relatives in Care Homes; family contact in hospital at end of life/serious medical treatment; objections to vaccination by uncapacious adults; deprivation of liberty issues. The CoP continued to sit in public with some cases remotely attended by 30 to 60 members of the public. Many were from the professions keen to develop understanding of capacity and best interests' decisions.

## 7. Coroners

Coroners investigate violent and unnatural deaths and deaths where the cause is unknown as well as those that take place in prison or state detention. The Chief Coroner's jurisdiction covers England and Wales and includes a range of formal powers and duties including extensive case management powers, supervising coroner appointments and reporting to the Lord Chancellor and Parliament on the coronial system. The Chief Coroner's Annual Report is published annually by the Lord Chancellor.

The coronial system has been under significant pressure during the pandemic. Coroners have been on the front-line of the response, making significant local contributions to wider death management arrangements during the pandemic. The Chief Coroner has engaged, on behalf of coroners, with central government on the COVID-19 response and coroners have been instrumental in the continued functioning of the death management system during the pandemic.

## 8. Wales

The Crown Court in Wales was operating normally by July 2021 save for challenges in Cardiff due to accommodation and judicial capacity. The magistrates' courts had by that stage entirely recovered to pre-COVID-19 levels of work. Wales has provided substantial support to recovery in the wider jurisdiction, helping to reduce the backlog of Single Justice Procedure cases in regions of England. The volume of civil work, as in England, has dropped significantly. Wales remains the best-performing area in the Family jurisdiction.

In December 2020 the Lord Chief Justice sat in the Court of Appeal in Cardiff. Although COVID-19 restrictions necessarily hindered planned activities, he met the First Minister for a valuable discussion about justice in Wales including recovery. The Lord Chief Justice also met the President of Welsh Tribunals whilst in Cardiff.

Important engagement has continued in Wales throughout the challenges of the pandemic, with a successful virtual Legal Wales conference in October 2020 attended by the Lord Chief Justice. The Association of Judges of Wales also held its AGM virtually in November.

The recent proposal of judicial involvement with the newly established Law Council of Wales, which will include membership of the Presiding Judges of Wales, the President of the Welsh Tribunals and the Chair of the Wales Training Committee, is welcomed. The Council will provide a forum to enable a strategic and collective approach to the development of the legal sector in Wales, which is of great importance in encouraging a vibrant legal professional and academic presence in Wales.



The Wales Training Committee continues its work to ensure that diversion between English and Welsh law is understood and can be applied appropriately by judges sitting in Wales. The Lord Chief Justice spoke of this important work in his evidence to the Constitution Committee in May 2021. Intensive work is now underway to deliver face-to-face training in the coming year. Training is currently focused on Welsh housing law and Welsh language training for judges conducting proceedings in Welsh.

The Lord Chief Justice welcomes continued engagement from the Welsh Government on legislative changes that could affect the administration of justice in Wales.

## 9. International

In 2020 and 2021, the judiciary's international work continued despite the impact of COVID-19 and the global situation. A flexible approach was taken, building on the digital tools developed over the previous months, in order to deliver a wide range of international training and engagement.

A scaled-down Opening of the Legal Year service meant there were no overseas guests in October 2020. However, the Lord Chief Justice convened a meeting of Commonwealth Chief Justices to discuss their respective judiciaries' responses to COVID-19.

The Commonwealth remained an important focus of international work for the English and Welsh judiciary. Training provided by the Judicial College to magistrates in several Nigerian states assisted with the reopening of courts closed by the pandemic. Webinars on sentencing guidelines were delivered to judges from the Gambia and a variety of jurisdictions took part in workshops on case management and technology. A new project is underway assisting Zambia to create a Judicial College. Working with partner organisations such as the Commonwealth Magistrates and Judges Association and the Commonwealth Lawyers Association also continued.

Engagement in Europe continued to take place through multilateral organisations such as the European Network of the Councils for the Judiciary and the European Judicial Training Network. These facilitated judicial training on issues such as domestic violence, cybercrime and restorative justice. Bilateral engagement increased through virtual meetings with judges from Cyprus, Germany, France, Ireland, Italy, and the Netherlands among others, on topics ranging from managing virtual hearings to differences in civil and common law criminal justice systems.

England and Wales judges continued to support the development of international standards and norms through engagement with the UN and other multilateral networks. In international family law, judges worked through the International Hague Network of Judges and bilaterally to develop best practice in the application of international family law instruments.

England and Wales continued to support fully the global forum of commercial courts, the Standing International Forum of Commercial Courts (SIFoCC). Significant efforts were made to enable the third full meeting to take place virtually in March 2021 which convened over 100 senior judges from all over the world to share best practice and experience on subjects including technology, third party litigation funding and meeting the needs of court users. Alongside the full meeting, SIFoCC continued to collaborate with partners such as Commonwealth Magistrates' and Judges Association, Commonwealth Lawyers Association and London International Disputes Week.

