

Update

Litigation trends

The Ministry of Justice has published its statistics for judicial and court activity in England and Wales for 2013. The figures published show that overall the volume of litigation dealt with by the Royal Courts of Justice in London increased by 23% compared to 2012. The 2014 figures are expected out later in 2015 when we will send another briefing note.

This increase resulted from a significant rise in the number of claims in the Companies Court and smaller rises in the Bankruptcy, Chancery, Technology and Construction and Commercial Courts (see Fig. 1). The Companies Court saw the highest increase in claims – a 59% increase since 2012.

Queen's Bench Division

In the Queen's Bench Division of the Royal Courts of Justice, London (not including figures for the Admiralty, Technology and Construction and Commercial Courts), the number of new claims decreased by 363 (a 6.5% decrease on 2012 numbers).

A fifth of the 5,186 claims issued were debt claims, a 6% decrease from 2012. The number of tort claims increased from 56 to 111 (by 100%). Personal injury claims decreased from 1,053 to 950 (by 9.7%), clinical negligence claims increased from 1,012 to 1,132 (by 12%) and the number of debt claims decreased significantly from 1,434 to 1,037 (by 28%).

There were increases in miscellaneous claims from 594 to 663 (12%), and breach of contract claims decreased in number from 984 to 891 (by 11%). Defamation claims decreased by 24%. The picture is shown at Figure.2.

Across the whole of England and Wales, in the Queen's Bench Division (including London) 13,053 claims were started, representing a decrease of 10% compared to 2012 and a decrease of 30% compared to 2009 when there was a peak in claim numbers.

Chancery Division

In the Chancery Division (not including the Companies and Bankruptcy Courts), the number of claims and originating proceedings issued in London was 5,546 – 11% higher than in 2012. Please see Fig.3 for a breakdown of the types of claim.

Across England and Wales in the Chancery Division (including London) 28,615 claims were started, representing a decrease of 1% compared to 2012 and a decrease of 37% compared to the peak in 2009.

Companies and Bankruptcy Courts

In the Companies Court (which deals primarily with liquidations) in London there was a significant rise (59%) in claims. The rise in claims in the rest of England & Wales was smaller – 1.4%. There was a 14% increase in claims in the Bankruptcy Court.

Professional negligence claims

After the 2009 peak in professional negligence claims issued in the London Chancery and Queen's Bench Divisions, claims followed a downward trend. However, in 2013, professional negligence claims in the Chancery Division in London increased from 89 to 99 (by 11%) compared to 2012. In 2013 in the London Queen's Bench division, the number of "negligence claims" (which includes professional negligence claims) also increased from 228 to 258 (by 13%).

Technology & Construction Court and the Commercial Court

Following a decrease of 16% in the Technology & Construction Court (TCC) from 2011 to 2012, claims increased by 7% from 2012 to 2013 (see Fig. 5).

In the Commercial Court, following a spike in 2011 which saw the number of claims rise even higher than 2009 levels, levels of work dropped in 2012 by 14%. Since the drop in 2012, claims increased slightly in 2013 by 5% (see Fig. 6). Of the 1,198 claims issued in the Commercial Court in 2013, around 20% related to arbitration. This is slightly lower than the percentage for 2012 (23%) and the same as 2011 (20%).

The Appellate Courts

In the UK Supreme Court (UKSC), 203 applications for permission to appeal from the civil divisions of the Court of Appeal and High Court (an increase of 22% since 2012) were decided, of which 66 were allowed and 137 refused.

As for full appeals presented to the UKSC from the civil divisions of the Court of Appeal and High Court, 44 were allowed and 47 were dismissed. The number allowed in 2013 was more than the 25 appeals allowed in 2012 (see Fig. 7).

In the Court of Appeal's Civil Division, the numbers of final appeals filed and disposed of were down by 3% and 1% respectively compared to 2012. The proportions of appeals allowed decreased by 11.5% in comparison to 2012.

Costs assessments

Statistics for the Senior Courts Costs Office (SCCO) show that the number of assessments of bills more than doubled from 1,067 in 2012 to a peak of 2,333 in 2013 (see Fig. 8).

Comment

The biggest change from 2012 to 2013 was in the Companies Court (59%), although there were also increases in the Bankruptcy, Chancery, TCC and Commercial Courts, as well as a large increase in costs assessments. Given the improving financial outlook during that period, the increase in insolvency related litigation is surprising and may be a culmination of the effects of earlier years or a sign that for smaller businesses conditions were still harsh. The large proportion of claims issued in the Commercial Court relating to arbitration (approximately 20%) shows continued high levels of interest in the arbitration process as an alternative to court proceedings. This is something that may continue if court fees are increased substantially as a result of the current consultation process which proposes, for example, that the issue fee for a claim form for a claim in excess of GBP 200,000 would rise to 5% so that a GBP 1 million claim would cost GBP 50,000 to issue.

Finally, professional negligence claims rose slightly in 2013 compared to the previous year and we will be focusing more closely on that trend in our next edition. We anticipate that in 2015 the numbers of litigated professional indemnity claims may well be down in favour of mediation and adjudication, given the likely dramatic rise in court fees.

Fig. 1

Originating Proceedings in the Royal Courts of Justice in London (Chancery Division, Queen's Bench Division, Admiralty Court, Technology and Construction Court, Commercial Court, Companies Court and Bankruptcy Court)

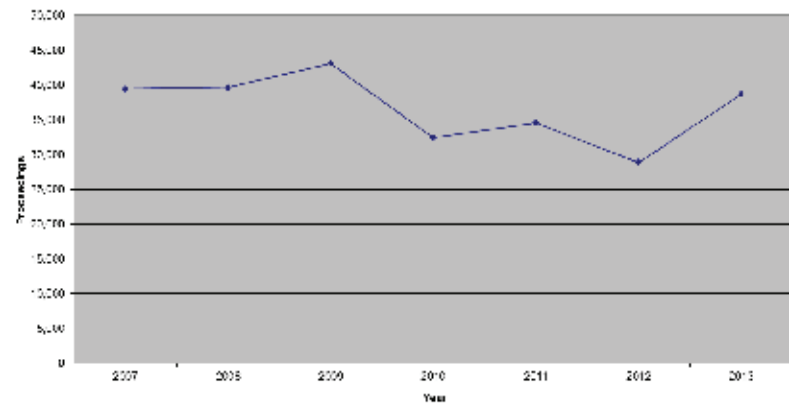


Fig. 2

Claims in the Queen's Bench Division in the Royal Courts of Justice in London, by nature of proceedings

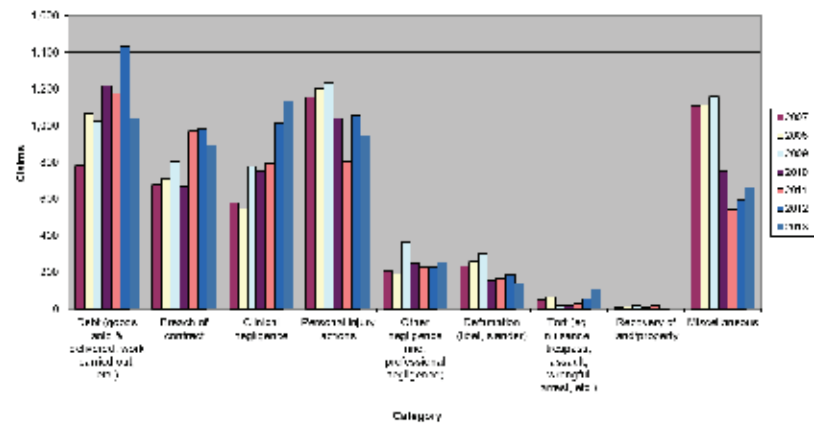


Fig. 3

Claims in the Chancery Division of the Royal Courts of Justice in London, by nature of proceedings

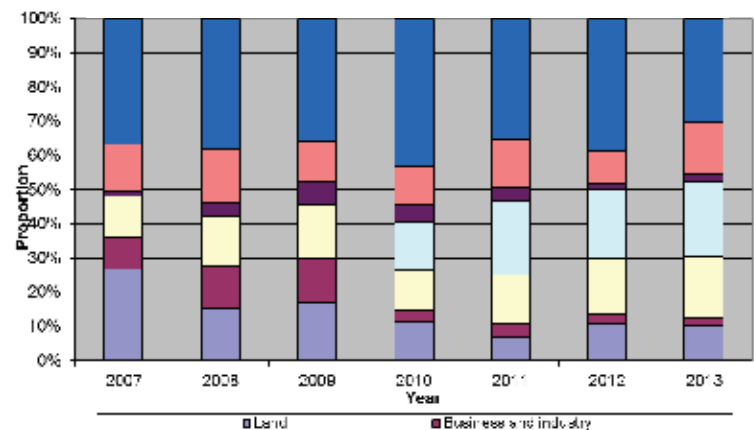


Fig. 4

Professional negligence claims in the Chancery and Queen's Bench Division in the Royal Courts of Justice in London

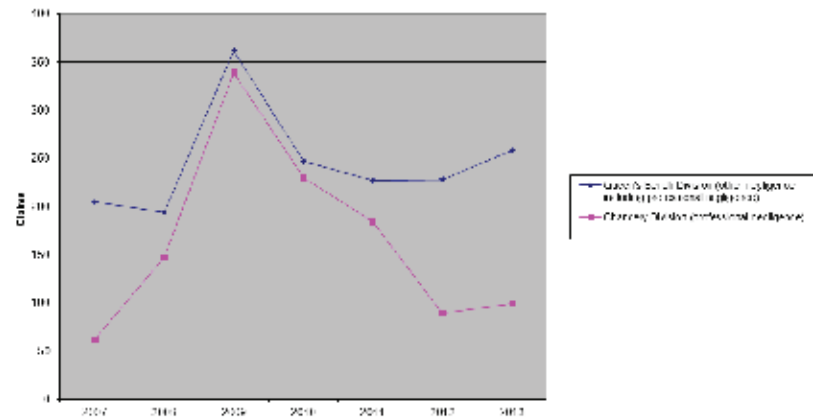


Fig. 5

Caseload of the Technology and Construction Court in the Royal Courts of Justice in London

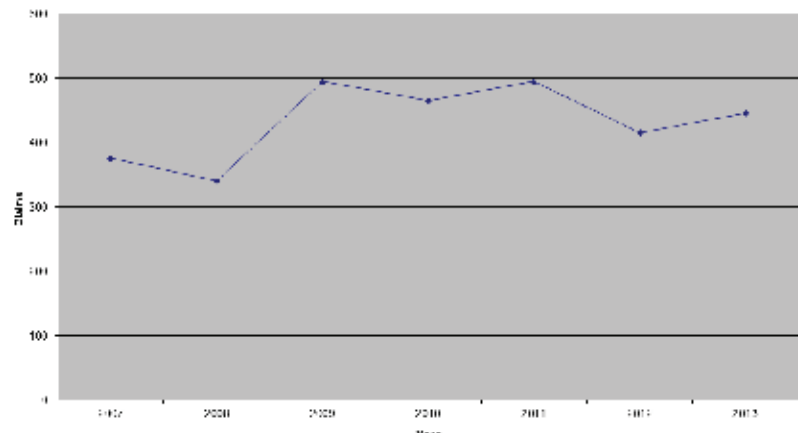
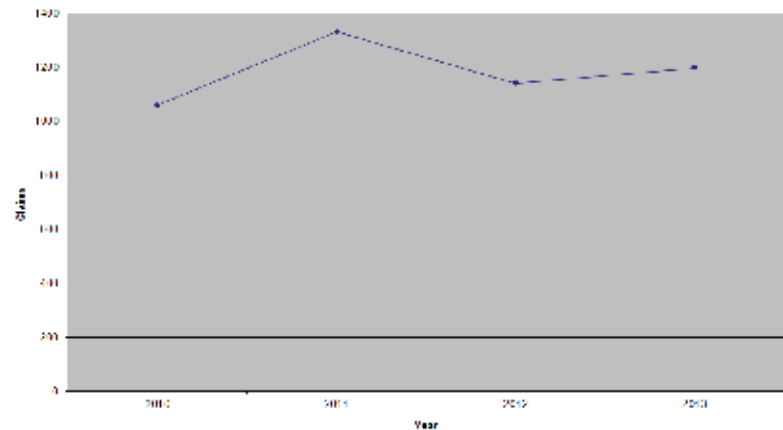


Fig. 6

Claims issued in the Commercial Court in the Royal Courts of Justice in London



Further information

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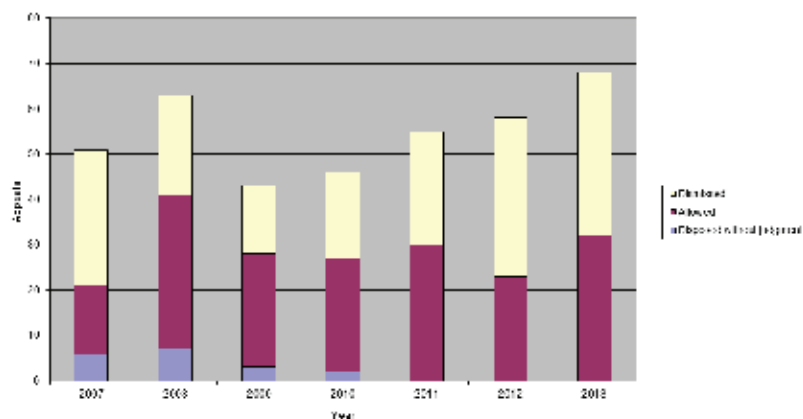
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Fig. 7

Civil appeals from the Court of Appeal (Civil Division) disposed of by the House of Lords and Supreme Court



Final appeals disposed of by the Court of Appeal (Civil Division)

Fig. 8

Number of "between parties" assessments by the Senior Courts Costs Officer

