

Chapter 4

County Court

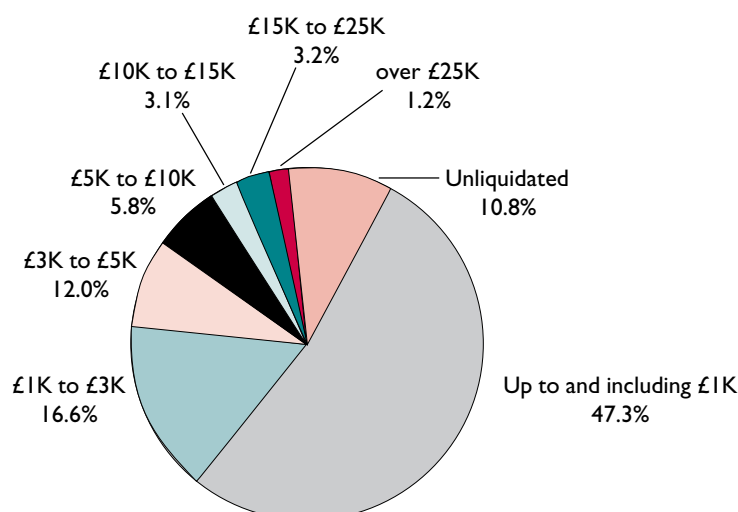
Around 230 county courts in England and Wales hear civil proceedings which can be commenced in either county courts or the High Court.

County courts also handle family proceedings such as divorce, domestic violence and matters affecting children. Generally the High Court handles the more substantial, important and complex cases (Chapters 2, 3, and 5).

During 1999-

- claims fell by 11% (Table 4.1)
- there was a increase of nearly 4% in the number of mortgage possession orders made (Table 4.6)
- 88,389 claims were disposed of by way of small claims (Tables 4.7 & 4.8)
- The average waiting period for a trial was 79 weeks (Table 4.16)
- creditors' and debtors' bankruptcy petitions rose by 5% (Table 4.21)
- company winding-up petitions dropped from 976 to 808

County Courts:
Claims issued by amount of claim, 1999¹



Figures based on three months sample data from selected county courts

Introduction

Since 1 July 1991 county courts can deal with all contract and tort cases and recovery of land actions, regardless of value. In addition, all county courts deal with the following types of proceedings-

- (a) certain equity and contested probate actions (for example, actions concerning an alleged breach of trust obligation by a trustee or questions concerning the administration of a will) where the value of the trust, fund or estate does not exceed £30,000
- (b) any action which all parties agree to have heard in a county court (eg defamation cases) except cases on certain aspects of trust, family and admiralty law

Some courts also hear-

- (a) divorce matters (see Chapter 5)
- (b) bankruptcy and insolvency matters
- (c) matters under the Race Relations Act 1976

Each county court is assigned at least one circuit judge and one district judge. Circuit judges generally hear the higher claims and matters of greater importance or complexity. District judges generally deal with uncontested matters and hear mortgage repossession claims and claims under £5,000 in value. In addition, district judges deal with some preliminary matters in cases which go for trial by a circuit judge.

Claims and miscellaneous hearings

Starting a case

The normal method of taking someone to court is for the person doing so (the claimant) to complete a claim form and issue it at a county court. The claim can be issued in any county court. On receipt of the claim form the court allocates a claim number and enters the details into the court's records. A response pack is attached to the claim form which is then sent to (served on) the person being sued (the defendant). The defendant has a specific time in which to reply to the claim. A defendant can then either pay the claim, dispute it (defend it), admit the claim and ask for time to pay it or ignore it. If the claim is defended, a judge will allocate the claim to one of three tracks for case management purposes:-

- (a) the small claims track - for cases with a value up to £5,000
- (b) the fast track - for cases with a value over £5,000 but less than £15,000
- (c) the multi-track - cases with a value in excess of £15,000

Each track involves a different degree of judicial involvement. Procedures in the small claims track are the most informal.

If a defendant does not reply to the claim, the claimant can ask the court to enter judgment, that is to make an order that the defendant pay the claim. If the defendant has admitted the claim and asks for time to pay and the claimant accepts the offer, a request for judgment can similarly be made.

Should the judgment not be paid as the court has ordered it is open to the claimant to issue enforcement proceedings to obtain payment. Judgments and enforcement are explained in more detail later in this chapter.

The Claims Production Centre

The Claims Production Centre (CPC) was set up in January 1990 to process claims requests received on magnetic media from major claimants - ie claimants who generally issue more than 1,000 annually. Issue and dispatch of claims is guaranteed within 24-48 hours. The CPC has customers such as banks, credit/storecard issuers, mail order catalogues and utilities. It issued 925,861 claims representing 54% of the total default claims issued. Although located in Northampton, the CPC is deemed to be part of the court in whose name the claim is issued and once the claim is issued and served, that court will deal with the case in the usual way.

The 1999 figure of 2,000,337 claims entered represented a decrease of 11% on the 1998 figure. Claims issued represented 86% of the total. The remainder were fixed date actions, 79% of which were actions for the recovery of land, mostly relating to residential premises.

Table 4.1
Claims issued and warrants of execution¹ issued in selected years since 1938

Year	Claims issued			Warrants of execution against goods issued
	'Money' claims ²	Claims for the recovery of land ³	Total	
1938	1,192,777	19,476	1,212,253	458,403
1958	1,273,193	27,749	1,300,942	813,689
1968	1,441,079	40,337	1,481,416	1,621,383
1978	1,356,519	111,026	1,467,545	1,070,533
1988	2,099,805	185,320	2,285,125	1,215,701
1990	3,034,923	276,334	3,311,257	1,344,326
1995	2,256,670	188,578	2,445,248	895,301
1996	2,145,958	191,595	2,337,553	707,014
1997	2,011,642	197,236	2,208,878	622,408
1998	2,010,606	234,718	2,245,324	543,848
1999	1,760,308	240,029	2,000,337	538,337

¹ For years prior to 1978 figures relating to the Mayor's and City of London Court are not included

² From 1988 includes unliquidated claims

³ From 1990 does not include Order 24 originating applications

Table 4.2
Summary of proceedings started, 1999

Nature of proceedings

Claims entered:	
Default actions	1,711,641
Fixed date actions (other than for possession of land)	48,667
Actions for possession of land	240,029
Bankruptcy petitions	19,180
Companies Act:	
Winding-up petitions	5,526
Family matters (major areas of work) ¹ :	
Adoption applications (originating)	3,956
Divorce, nullity and judicial separation petitions	165,770

¹ For details of these and other family matters dealt with by county courts see Chapter 5

Table 4.3
Main proceedings started by circuit, 1999

Circuit	Default actions ¹		Fixed date actions ²	
	Number	%	Number	%
Midland & Oxford	170,521	10	56,564	20
North Eastern	153,615	9	36,418	13
Northern	133,400	8	35,912	12
South Eastern:				
London	97,842	6	59,518	21
Provinces	206,106	12	55,709	19
Wales & Chester	48,235	3	19,247	7
Western	117,550	7	25,328	8
County Court Bulk Centre ³	784,372	45	-	-
England & Wales	1,711,641	100	288,696	100

¹ Including claims issued by the claims production centre

² Including actions for possession of land (except those under Order 24 of the County Court Rules)

³ Referred to later in this chapter

Table 4.4
Default actions: Claims issued by the Claims Production Centre, 1999

Circuit	Number	%
Midland & Oxford	16,434	2
North Eastern	21,011	2
Northern	10,045	1
South Eastern:		
London	15,154	2
Provinces	44,995	5
Wales & Chester	6,709	1
Western	27,141	3
County Court Bulk Centre ¹	784,372	84
England & Wales	925,861	100

¹ Referred to later in this chapter

Recovery of Land

The total number of actions started for recovery of land increased from 234,718 in 1998 to 240,029 in 1999. Mortgage possession actions rose by nearly 4% from 79,637 in 1998 to 82,623. Of the total mortgage possession actions issued in 1999, 97% concerned private mortgages and the remainder, local authorities. During 1999, a total of 60,657 mortgage possession orders were made, of which 61% were suspended.

Table 4.5
Recovery of Land: Actions entered and orders made for recovery of land by type of action, 1999

Nature of proceedings

Local authority mortgage possessions:	
Actions entered	2,532
Suspended orders made	1,468
Orders made	583
Other mortgage possessions:	
Actions entered	80,091
Suspended orders made	35,599
Orders made	23,007
Other possession actions by social landlords ¹ :	
Actions entered	139,067
Suspended orders made	72,106
Orders made	24,202
Other possession actions by private landlords ² :	
Actions entered	18,339
Suspended orders made	6,381
Orders made	8,588

¹ Includes actions by local authorities and housing associations

² Includes actions by all landlords except local authorities and housing associations

Table 4.6
Recovery of Land: Mortgage possession actions¹, selected years since 1988

	1988	1990	1996	1997	1998	1999
Actions entered	72,655	145,350	79,791	67,073	79,637	82,623
Orders made ²	47,769	103,508	71,211	57,156	58,249	60,657

¹ Local authority and private

² Including suspended orders

Judgments and hearings

Judgment can be entered in various ways in county courts. Most of the judgments in money claims are entered by default (ie in the absence of a response from the defendant within the allotted 14 days from the date of service of the claim) or by the claimant accepting the defendant's offer to pay all or part of the amount claimed. There is generally no need to involve either a circuit judge or a district judge in these cases. However, they become involved when there is a defence against all or part of the claim when the matter is set down for a trial or a small claims hearing. Fixed date actions can also lead to trials.

On 26 April 1999, the limit for small claims increased from £3,000 to £5,000 for all claims except personal injury which remained at £1,000. The increase has widened the value band of cases which are automatically referred to the small claims track when a defence is filed.

Table 4.7
Proceedings disposed of by trial¹ or small claim² by circuit, 1999

Circuit	Trial		Small Claims	
	Number	%	Number	%
Midland & Oxford	1,907	14	15,356	17
North Eastern	1,383	10	9,448	11
Northern	2,751	20	8,608	10
South Eastern:				
London	3,044	23	17,372	20
Provinces	2,033	15	22,332	25
Wales & Chester	832	6	5,328	6
Western	1,487	11	9,945	11
England & Wales	13,437	100	88,389	100

¹ The trial figures have been calculated from a sample of 88% of monthly court level data

² Due to differences in data collection practices between courts it is known there are inconsistencies with some small claims court level data. Further analysis suggests that this has not significantly affected the overall England and Wales figure.

Table 4.8
Proceedings disposed of¹ by small claim, by nature of claim and by circuit, 1999

Circuit	Personal injury	Other negligence	Debt	Non-possession housing disputes	Other	Total
	Midland & Oxford	1,788	2,239	9,289	723	1,317
North Eastern	532	1,126	6,840	148	802	9,448
Northern	1,581	1,337	4,999	86	605	8,608
South Eastern:						
London	2,100	2,164	8,546	964	3,598	17,372
Provinces	2,150	3,440	15,073	239	1,430	22,332
Wales & Chester	332	654	3,963	19	360	5,328
Western	447	592	8,505	62	339	9,945
England & Wales	8,930	11,552	57,215	2,241	8,451	88,389

¹ Due to differences in data collection practices between courts it is known there are inconsistencies with some small claims court level data. Further analysis suggests that this has not significantly affected the overall England and Wales figure.

Table 4.9
Small claims heard by nature of claim, type of claimant and defendant, 1999¹

Nature of claim	Claimant				Defendant			
	Individual	Firm	Corporation	Total	Individual	Firm	Corporation	Total
Debt	25,290	16,710	14,150	56,150	37,350	11,640	7,160	56,150
Negligence -								
personal injury	3,270	250	40	3,560	2,300	800	460	3,560
Other negligence	14,490	1,000	1,260	16,750	11,560	3,010	2,180	16,750
Non possession								
housing dispute	840	80	170	1,090	840	80	170	1,090
Other	7,120	1,880	1,840	10,840	6,240	2,340	2,260	10,840
Total	51,000	19,930	17,460	88,389	58,280	17,880	12,230	88,389

¹ Figures in italics are weighted estimates based on three months sample data from selected county courts

Table 4.10
Small claims heard by nature of claim and award, 1999

Nature of claim	non	£1k	£1k	£3k	over	Total
	monetary	or less	-£3k	-£5k	£5k	
Debt	8,880	33,500	11,600	1,630	540	56,150
Negligence - personal injury	840	1,420	840	290	170	3,560
Other negligence	2,390	9,420	4,400	500	40	16,750
Non possession						
housing dispute	250	460	290	80	-	1,090
Other	2,260	5,490	2,550	460	80	10,840
Total	14,610	50,290	19,680	2,970	840	88,389

¹ Figures in italics are weighted estimates based on three months sample data from selected county courts

Table 4.11
Average waiting and hearing times¹ for small claims, by nature of claim, 1999

Nature of claim	Average waiting time in weeks	Average
	(issue of claim to start of small claims)	length of small claim (minutes)
Debt	25	57
Negligence - personal injury	32	74
Other negligence	27	73
Non possession		
housing dispute	23	64
Other	26	58
Total	26	61

¹ Figures are based on three months sample data from selected county courts

Table 4.12
Trials by nature of claim and whether legal aid granted¹, 1999

Nature of claim	Number of cases	Legal Aid granted for			
		Both parties	Claimant only	Defendant only	Neither party
Debt	2,310	70	210	190	1,850
Negligence - personal injury	6,400	600	2,200	70	3,530
Other negligence	1,120	70	340	60	650
Other	3,600	190	620	450	2,350
Total	13,437	930	3,360	770	8,380

¹ All figures in italics are weighted estimates based on two months sample data and may not add up due to rounding

Table 4.13
Actions set down for trial¹, disposed of and results by nature of claim, 1999

Nature of Claim	Method of disposal				Result of action after attending court			
	Attending court				For claimant	For defendant	For both	Total
	After trial	Settled during hearing	Struck out	Total				
Debt	<i>1,750</i>	<i>430</i>	<i>130</i>	<i>2,310</i>	<i>1,920</i>	<i>280</i>	<i>60</i>	<i>2,260</i>
Negligence - personal injury	<i>4,570</i>	<i>730</i>	<i>1,100</i>	<i>6,400</i>	<i>4,260</i>	<i>1,470</i>	<i>280</i>	<i>6,010</i>
Other negligence	<i>750</i>	<i>210</i>	<i>170</i>	<i>1,120</i>	<i>710</i>	<i>260</i>	<i>70</i>	<i>1,050</i>
Other	<i>2,240</i>	<i>910</i>	<i>520</i>	<i>3,680</i>	<i>2,430</i>	<i>580</i>	<i>450</i>	<i>3,450</i>
Total	<i>9,310</i>	<i>2,280</i>	<i>1,920</i>	<i>13,437</i>	<i>9,310</i>	<i>2,590</i>	<i>860</i>	<i>12,770</i>

¹ All figures in italics are weighted estimates based on two months sample data and may not add up due to rounding

Table 4.14
Trials disposed of¹ by amount of award and nature of claim, 1999

Nature of Claim	Monetary award							Non monetary	Total
	£1k or less	£1k -£3k	£3k -£5k	£5k -£7.5k	£7.5k -£10k	£10k -£50k	Over £50k		
Debt	<i>150</i>	<i>210</i>	<i>430</i>	<i>340</i>	<i>190</i>	<i>340</i>	<i>60</i>	<i>560</i>	<i>2,260</i>
Negligence - personal injury	<i>390</i>	<i>990</i>	<i>690</i>	<i>500</i>	<i>280</i>	<i>630</i>	<i>320</i>	<i>2,200</i>	<i>6,010</i>
Other negligence	<i>150</i>	<i>110</i>	<i>150</i>	<i>110</i>	<i>70</i>	<i>110</i>	<i>20</i>	<i>320</i>	<i>1,050</i>
Other	<i>320</i>	<i>520</i>	<i>280</i>	<i>210</i>	<i>130</i>	<i>220</i>	<i>40</i>	<i>1,740</i>	<i>3,450</i>
Total	<i>1,010</i>	<i>2,280</i>	<i>1,550</i>	<i>1,160</i>	<i>670</i>	<i>1,310</i>	<i>430</i>	<i>4,810</i>	<i>12,770</i>

¹ All figures are weighted estimates based on two months sample data and may not add up due to rounding

Table 4.15
Trials disposed of¹ by type of judge and average length of hearing, by nature of claim, 1999

Nature of Claim	Heard by				Total	Average length of hearing
	Circuit judge	Deputy circuit judge, (assistant) recorder	District judge	Deputy district judge		
Debt	<i>1,120</i>	<i>210</i>	<i>900</i>	<i>40</i>	<i>2,270</i>	<i>4hrs 00mins</i>
Negligence - personal injury	<i>3,340</i>	<i>770</i>	<i>1,640</i>	<i>260</i>	<i>6,010</i>	<i>3hrs 23mins</i>
Other negligence	<i>620</i>	<i>90</i>	<i>260</i>	<i>70</i>	<i>1,040</i>	<i>3hrs 08mins</i>
Other	<i>1,920</i>	<i>490</i>	<i>970</i>	<i>70</i>	<i>3,450</i>	<i>3hrs 54mins</i>
Total	<i>7,000</i>	<i>1,550</i>	<i>3,770</i>	<i>450</i>	<i>12,770</i>	<i>3hrs 37mins</i>

¹ All figures are weighted estimates based on two months sample data and may not add up due to rounding

Table 4.16
Average waiting times¹ for trials by centre and nature of claim, 1999

	Average time between issue of claim and setting down (weeks)	Average time between setting down and start of trial (or date of disposal) (weeks)	Average time between issue of claim and start of trial (or date of disposal) (weeks)
London:	32	17	49
Personal injury	47	26	73
Other	29	16	45
Outside London:	54	26	81
Personal injury	49	30	79
Other	60	22	83
England & Wales	53	26	79

¹ Figures are based on a two month sample and may not add up due to rounding

Table 4.17
Average waiting times¹ for trials

	1990	1996	1997	1998	1999
Average waiting time (in weeks) between:					
Issue of claim and setting down	63	58	63	55	53
Setting down and start of trial	17	25	23	30	26
Issue of claim and start of trial	81	83	86	85	79

¹ Figures are based on a two month sample and may not add up due to rounding

Registration of judgments

The Registry of County Court Judgments is administered by Registry Trust Ltd (a private non-profit making company). Entries on the Register can be cancelled when a judgment is set-aside, reversed or is paid in full within a month. Judgments paid in full after a month can be noted on the Register as satisfied. All entries are automatically removed at the end of the sixth calendar year after the date of judgment. The Register is open for public inspection and is used in particular by credit reference agencies for credit rating. During 1999, 1,077,499 judgments were registered, 4% less than in 1998. Judgments satisfied and cancelled fell by over 15% to 241,855.

Table 4.18
Registry of County Court Judgments: Judgments registered, satisfied, cancelled and searches carried out, 1999

Judgments:	
Registered	1,077,499
Satisfied	165,538
Cancelled	76,317
Searches:	
Postal	27,168
Personal	3,051

Enforcement of judgments

There are various methods of enforcing judgments in county courts. The most common method is the warrant of execution against a debtor's goods, where saleable items owned by a debtor can be sold, unless the amount due under the warrant is paid.

During 1999, 538,337 such warrants were issued, a decrease of 1% over 1998. The number of warrants issued for possession of land rose by 5% to 136,718, the number of warrants executed (possession taken) also rose during 1999, up from 59,701 to 71,256. In order to obtain security for payment of a judgment or order, rather than to obtain the money itself, a creditor (the person to whom the debt is owed) may impose a charge on the debtor's property, for example on the debtor's house. Should the debtor later sell the property the creditor is assured of receiving some money before most other claims are met. This is called a charging order. Once a charging order has been made absolute a plaintiff may apply for an order for sale. The number of applications for charging orders issued in 1999 fell by 1% to 13,600.

The County Court Bulk Centre

The County Court Bulk Centre (CCBC) was set up in March 1992, initially to process the work of 'distributed' claimants who, until the venue rule change in July 1991, had issued in all or most county courts. The CCBC is a central processing unit, attached to Northampton County Court, which is designed to relieve the courts of the routine repetitive tasks associated with processing large volumes of debt recovery cases, such as entry of judgment and issue of warrants of execution. The CCBC provides a service for entry of judgment and warrant production for major claimants who between them issued 784,372 claims through the Claim Production Centre during 1999. The CCBC also entered 582,231 judgments (up 7% on 1998) and issued 274,419 warrants of execution (a increase of nearly 20% on 1998).

Table 4.19
Enforcement proceedings, 1999

Nature of proceedings

Warrants of execution against goods issued	538,337
Warrants of delivery of goods issued	7,703
Warrants of possession of land:	
Issued	136,718
Executed	71,256
Interpleader summonses issued	636
Judgment summonses issued	5,709
Garnishee summonses issued	3,357
Charging order applications issued	13,600

Attachment of earnings orders

Another common method of enforcement is for a creditor to obtain an attachment of earnings order which obliges the debtor's employer to deduct a set sum from the debtor's pay and forward it to the court. The number of applications to secure payment of a debt in this way fell by 14% in 1999 to 56,434. Orders made as a result of such applications were 21% lower than in 1998. Applications to secure payment of maintenance during 1999 rose by over 6% to 901.

Table 4.20
Enforcement proceedings: Proceedings under the Attachment of Earnings Act 1971, 1999

Nature of proceedings

To secure payment of maintenance:	
Applications	901
Orders made ¹	190
To secure payment of a judgment debt:	
Applications	56,434
Orders made ²	34,399

¹ Includes re-direction and discharge of orders

² Includes re-direction of orders

Administration orders and oral examinations

In certain circumstances a debtor may combine all his debts into an administration order. The debtor must have at least one court judgment against him which he is unable to pay immediately. All his other debts must be included in the request for an administration order and the total indebtedness should not exceed £5,000. Once the debts have been examined and found to be correctly calculated a district judge can make an order for the debtor to pay regular payments in court. The court will then distribute the money in the appropriate proportions to the creditors listed by the debtor. 8,720 administration orders were granted in 1999, 5% more than in 1998.

Oral examination is used to assist the claimant in determining the most appropriate method of enforcing a judgment; it is not a method of enforcement. However, the fact that debtors will be ordered to attend court to provide details of their means often results in the debtor paying the debt. The debtor has to provide information such as income, expenditure, employment and bank accounts. Applications filed for oral examination fell 10% from 69,278 in 1998 to 62,310 in 1999.

Bankruptcy and company winding-up

A person or company with debts which they are unable to pay is called insolvent. When speaking about individuals the term bankrupt is used to indicate insolvency. Proceedings in insolvency are presently regulated by the Insolvency Act 1986. Proceedings start with the issue of a petition for bankruptcy which either the debtor or a creditor may issue. Proceedings may be started at county courts with the appropriate jurisdiction or in the Chancery Division of the High Court. The total of 19,180 bankruptcy petitions issued during 1999 was 5% more than in 1998.

Table 4.21
Bankruptcy petitions issued¹, 1999

By creditors	7,311
By debtors or by legal representatives of deceased debtors	11,869
Total	19,180

¹ See also Table 2.5 (High Court - Bankruptcy)

When it becomes necessary to bring to an end a company's existence, whether due to insolvency or some other reason, the process is called 'winding-up'. There is a restriction on proceedings that may be started in county courts based on the paid-up capital of the company to be wound up; most winding-up work is commenced and carried out in the Chancery Division of the High Court at the Royal Courts of Justice and at eight provincial centres. County courts issued 808 petitions for winding-up in 1999, compared with 976 in 1998 (see Chapter 2 for overall trends in company winding-up petitions).

