

Notes on the jurisdiction of a Recorder

Section 21 of the Courts Act 1971, as amended, provides for the appointment of Recorders to act as part-time judges of the Crown Court and to carry out such other judicial functions as may be conferred on them. Unless otherwise indicated, the statutory jurisdiction of a Recorder is in general identical to that of a Circuit Judge. However, the allocation of business in the courts is also governed generally by other authorities, for example for the Crown Court, directions made by the Lord Chief Justice under s.75 of the Supreme Court Act 1981 and, for family business in the county courts, directions made by the Lord Chancellor under s.9 of the Courts and Legal Services Act 1990) and also by listing practice and procedure at particular court centres. Therefore, Recorders do not normally deal with appeals or committals for sentence in the Crown Court and, particularly in the early stages of their appointment, are not likely to deal with the more important and complex cases in the courts at which they sit.

Crown Court

The Crown Court has exclusive jurisdiction in trials on indictment - that is the trial, at first instance, of all criminal offences, which are not tried by Magistrates' Courts.

The Crown Court also sentences persons convicted by Magistrates' Courts but who are committed to the Crown Court because the magistrates are of the opinion that a more severe sentence may be called for than they have power to pass.

The Crown Court also has an appellate jurisdiction which comprises mainly appeals from magistrates' courts in criminal matters and Youth Court proceedings, but also includes some appeals in civil matters. The most important such appeals are those in relation to licensing and betting and gaming cases.

In the Crown Court, cases are classified into 4 classes under directions made by the Lord Chief Justice. Those in classes 1 and 2 are nominally reserved for trial by High Court Judges. In class 1, however, many cases of murder, or of incitement, attempt or conspiracy to commit murder, are in practice tried by authorised Circuit Judges, whilst in class 2, the great majority of offences, other than piracy, mutiny, sedition and offences under the Geneva Convention, are tried by authorised Circuit Judges. Class 2 includes most serious sexual offences, along with manslaughter and child destruction.

Cases in class 3 i.e. fraud cases, might be tried by a High Court Judge or, in accordance with general or particular directions given by a Presiding Judge, by a Circuit Judge or by a Recorder who had attended a Judicial Studies Board continuation seminar and had been duly authorised by a Presiding Judge.

Cases in class 4 i.e. all other offences, might be tried by a High Court Judge, a Circuit Judge or a Recorder (including a Recorder who had not attended a continuation seminar as referred to in paragraph 6 above). A case in class 4 could not be listed for trial by a High Court Judge except with the consent of that Judge or of a Presiding Judge.

In relation to indictable offences, the right of appeal lies against conviction or sentence from the Crown Court to the Court of Appeal, Criminal Division subject to leave, unless a Certificate of Appeal has been issued by the trial judge. The right of appeal in appellate matters lies by way of case stated to the Divisional Court of the Queen's Bench Division except in relation to certain matters such as licensing, where the decision of the Crown Court is final.

County Courts

The jurisdiction of the county courts is entirely statutory and covers almost the whole field of civil and family law. The general jurisdiction in civil law is mostly concurrent with that of the High Court.

A number of statutes confer exclusive jurisdiction on the county courts. These cover important areas of work of the county courts, for example virtually all cases under the Consumer Credit Act, actions by mortgage lenders for possession and actions by landlords and local authorities under the Rent Acts and the Housing Acts 1985 and 1988.

In addition to the general jurisdiction, about 80% of county courts have jurisdiction in insolvency. A few Circuit Judges also exercise specialist jurisdictions under, for example, the Race Relations Act 1976.

In family law the jurisdiction is similarly divided either by statute or practice direction. In some matters, such as adoption, the county courts have concurrent jurisdiction with the High Court. In other matters, county courts have exclusive jurisdiction, e.g. virtually all divorce proceedings.

The county courts share jurisdiction with the High Court and the Family Proceedings Court in applications under the Children Act 1989, the work being dealt with at the appropriate level pursuant to allocations directions. In the county courts where such applications relate to public law cases such as care and supervision orders, they are heard by nominated Circuit Judges sitting at Care Centres and directions in such matters are dealt with by nominated District Judges or nominated Circuit Judges sitting at the Care Centres.